

PROPOSED AMENDMENTS TO THE SUBDIVISION REGULATIONS

1.13 Variances and Appeals

A. General

Any applications for variances to the Chatham County Subdivision Regulations or appeals of staff interpretations shall follow the procedure outlined in Section 18 of the Chatham County Zoning Ordinance, except as otherwise provided in these regulations.

2.3 Meaning of Specific Words and Terms

Lot Area (Useable) - The area within the lot lines which is a contiguous ~~or non-~~ contiguous area suitable for a septic field, well, house and access. This area does not include public right-of-ways, flood hazard areas, floodways, or stormwater devices and associated easements. Riparian Buffer Areas may be used to meet useable lot area measurement requirements and other development-related regulatory requirements based on property size specified in Section 7.1B.

~~**Off-Site**—Any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant requesting subdivision plat approval.~~

6.4 Final Plat (B) Features

- (8) The location, and width of all existing and proposed right-of-ways and easements, alleys, and other public ways, and riparian buffers if applicable. ~~Septic system easements shall show bearings, distances, and area.~~

5.2 B Concept Plan

(1) Purpose

The concept plan is a process by which the applicant engages the community in discussion regarding the goals of the development. Environmental documentation showing existing site conditions will be required. Data layers available from the Chatham County GIS office will meet this requirement, unless additional documentation is required to show existing site conditions.

~~There are two types of major subdivisions: The developer has the choice to design conventionally, or present a and conservation. Conventional subdivisions follow a standard process outlined in the regulations. Conservation subdivisions differ from conventional subdivisions in several ways including design with incorporation of Conservation Subdivision Guidelines, coordination with the NC Natural Heritage Program, and approval~~

by the Chatham County Watershed Protection Director for conservation space~~Low Impact Development (LID) and Best Management Practice (BMP) features~~. A Conservation Subdivision (see Section 7.7) ~~encourages~~ requires the preservation of open space. This voluntary preservation allows for a density bonus giving the applicant more lots than would be allowed under conventional patterns.

5.2 C (2)(b) *Environmental Impact Assessment Review Process*

An Environmental Impact Assessment is required to be submitted for all major subdivisions consisting of 50 or more lots, or which meet one of the other criteria established in Section 6.2(B) for submittal of an Environmental Impact Assessment. See Section 6.2(A).

- (1) The applicant shall submit the Environmental Impact Assessment to the Watershed Protection Department for review.
- ~~(2)~~ The Watershed Protection Department will forward the Environmental Impact Assessment to an environmental consultant hired by the County for a peer review. The cost of this peer review shall be paid by the applicant prior to submittal of the First Plat to the Planning Department.
- ~~(2)~~~~(3)~~ The peer review shall be forwarded to the Environmental Review Advisory Committee to review the adequacy of the EIA and the peer review of it. They shall have 45 days to complete their review.
- ~~(3)~~~~(4)~~ Within 60 days, the ~~Environmental Quality~~ Watershed Protection Department shall forward a report to the applicant and Planning Department.

7.7 Conservation Subdivision—Alternative Standards for Development

As an alternative to conventional layouts, Chatham County encourages the preservation of large, contiguous blocks of land, herein referred to as Conservation Space. Conservation Space shall consist of Open Space and Natural Space. When a project voluntarily preserves Conservation Space in accordance with this Section, a project can increase the number of units that would be allowed on the overall property by ten (10) percent. Calculation of the density bonus shall be based on the applicable underlying land use regulation(s) dictating allowable development density. Prior to designing a layout for the site, the applicant must follow the steps outlined in The Chatham County Conservation Subdivision Guidelines for Conservation Space Selection to identify the conservation space, prepare the On-Site Inventory and Fragmentation Maps, and have those maps approved by the Watershed Protection Director or their designee. The On-Site Inventory and Fragmentation Maps must be

approved by the Watershed Protection Director prior to submitting a Concept Plan application to the county. Failure to follow these steps will result in delays and require a redesign of the site.

The requirements for this option are detailed below.

A. Conservation Space Requirement

A minimum of 40 percent of the project area shall be retained as Conservation Space for a conservation subdivision design. Land required to be protected under other regulatory provisions, such as riparian buffers and floodplain, are not permitted to be included in the Conservation Space calculation and must be deducted from the gross acreage.

B. Composition of Conservation Space

A maximum of 20% of the required Conservation Space shall be Open Space and a minimum of 80% of such Conservation Space shall be Natural Space, ~~unless it can be demonstrated that no practical alternative exists for preserving that amount of Natural Space.~~ See The Chatham County Conservation Subdivision Guidelines for Conservation Space Selection.

C. Connectivity of Conservation Space

At least 50 percent of the proposed Conservation Space shall consist of a contiguous tract. The Conservation Space should adjoin any neighboring areas of Conservation Space on other parcels whenever practicable.

D. Permitted Uses of Conservation Space

Provided it includes the required divisions of Open Space and Natural Space and otherwise conforms with the Chatham County Conservation Subdivision Guidelines, uses of Conservation Space may include the following:

(1) Conservation

Conservation of natural resources, archeological resources or historical resources

(2) Agriculture

Existing and ongoing bona fide agriculture ~~or~~ horticulture, ~~or silviculture~~, provided that all applicable best management practices are used to minimize environmental impacts. Silvicultural operations cannot be included in Conservation Space.

(3) Recreation

Active recreational uses of Open Space are permitted, given that active uses such as tennis courts, swimming pools, ball fields, playgrounds, et cetera are limited to a maximum of 5 percent of the total Conservation Space area.

(4) Stormwater Management

Use for stormwater management is permissible within Open Space consistent with the Chatham County Stormwater Ordinance requirements.

(5) Utility Easements

Easements for drainage, access to utilities, and underground utility lines within Open Space.

(6) Water, ~~Septic~~, and Sewer Systems

Shared water, ~~septic~~, and sewer infrastructure (excluding septic) is allowed in Open Space, but not in Natural Space ~~areas unless approved by the Environmental Quality Department~~.

(7) Trails

All trails, provided that Best Management Practices and an approved Trail Management Plan are employed for recreational purposes, such as pedestrian, mountain biking, general recreation and equestrian uses.

(7) Community Gardens

Community Gardens are permitted consistent with this definition: A community garden is any piece of land where plants are grown and maintained by a group of individuals from the community. Community gardens may produce food for individual consumption or for sale, may be designed for beautification of the community, and may be used for educational purposes. (from Public Health Law Center "Community Garden Policy Reference Guide"). These are allowed in Open Space, but not Natural Space.

E. Prohibited Uses of Conservation Space

(1) Use of Motor Vehicles

(Except for maintenance purposes as provided for in the Open Space Management Plan).

(2) Roads, Parking Lots and Impervious Surfaces

(Except when necessary for access. to active recreational uses).

F. Ownership of Conservation Space

The applicant must identify the current and intended future owner(s) of the Conservation Space who is/are responsible for maintaining such area/facilities. The responsibility for maintaining the Conservation Space and any facilities located thereon shall be borne by the owner unless otherwise specified in a Conservation Space Management Plan approved by the County.

G. Management of Conservation Space

The applicant shall submit a management plan for all proposed Conservation Space. Upon initial approval of the management plan by the County, changes to the plan shall be allowed only when approved by the County Board of Commissioners. The plan shall be referred to as the "Conservation Space Management Plan" and shall include:

- (1) A statement allocating maintenance responsibilities and establishing guidelines for the upkeep of Conservation Space and all associated facilities;
- (2) Cost estimates for all maintenance, operation and insurance needs for the Conservation Space, as well as a plan that outlines the means by which funds will be obtained for such expenses;
- (3) Establishment of criteria for enforcement of the plan.
- (4) Prior to any clearing or grading of the site, protective fencing should be established around all Natural Space areas. Fencing shall be placed outside the critical root zone or dripline, whichever is greater, of any trees.

H. Legal Instrument for Permanent Protection

Conservation Space proposed for a conservation subdivision shall be protected in perpetuity by a binding legal document that is recorded with the deed upon review and approval by the County. The document shall be one of the following three (3) options:

- (1) **Permanent Conservation Easement.**

A permanent conservation easement in favor of either:

- A land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its functions; or
- A governmental entity with an interest in pursuing goals consistent with the intentions of this Section.

(2) Permanent Restrictive Covenant.

A permanent restrictive covenant for conservation purposes.

(3) Alternative Land Use Restriction.

An equivalent legal tool that provides permanent protection, if approved by the County Attorney. The instrument for permanent protection shall include all use restrictions contained in this section, as well as any additional reasonable restrictions the applicant chooses to place on the use of the open space.

I. Density Bonuses

The base density for a conservation subdivision is determined by the underlying land use regulation, establishing otherwise allowable unit density (minus any regulated floodplain, where building is prohibited under Chatham County ordinances) in which the development parcel is located. Permitted housing densities shall not exceed the maximum allowances of any applicable water supply watershed requirements.

~~**J. Reserved Agricultural Preservation Density Bonus**~~

~~**J.** Conservation subdivisions proposed for the purposes of sustaining existing on-site bona fide agricultural operations are entitled to a five (5) percent increase in permitted density (this in addition to the ten (10) percent density bonus). Ideally, residential lots in such developments should be located in areas less suitable for agricultural production, while prime farmland areas of the property should be reserved as Conservation Space. It is strongly recommended that development parcels be located where agricultural operations do not interfere with the safety and/or well being of potential future residents. Upon completion such agricultural uses, all lands previously occupied by those uses shall be~~

~~preserved in perpetuity as natural space, and shall not qualify for future development.~~

K. Lot Size, and Structure Placement, and Perimeter Buffer

(1) Lot Size

There is no minimum size for lots in a conservation subdivision; however the lot size shall be adequate to provide for minimum setbacks and any required infrastructure or services.

(2) Structure Placement.

a. Setbacks

Structures within a conservation subdivision should be placed as closely to internal roads as practical. The reviewing agency may reduce the front yard setback to a minimum of five (5) feet when necessary. In such cases, the reviewing agency must take into consideration sound engineering, public safety concerns and community character when applying standards. Vegetative buffers should be left between new development and existing residential development ~~where possible.~~

a. Separation

Structures within conservation subdivisions may be located in the side yard setback required by the zoning district regulations. Structures may be placed as closely together as permitted by the North Carolina State Building Code.

(3) Lot Proximity to Open Space.

Open space shall be accessible to the largest possible number of lots within the development. To achieve this, the majority of lots should abut open space to provide residents with direct views and access. Safe and convenient pedestrian access to the open space from all adjoining lots shall be provided, except in the case of farmland or other resources areas vulnerable to human disturbance.

(4) Perimeter Buffer

A 50-foot undisturbed buffer shall apply to the entire project boundary and shall remain undisturbed. Road and utility crossings are permitted but must be designed to minimize impacts to the buffer and cannot run parallel within the buffer. The buffer area can count towards the density bonus calculation.

except in areas where the perimeter buffer overlaps -an area that is excluded from the density bonus calculation.

L. Private Driveway Easements

Private driveway easements may be used in place of public and/or private roads where proposed to provide access to two (2) or fewer lots. The minimum required easement width is 30 feet and shall have a centerline length of no more than 200 feet. Proposed driveway easements should be clearly identified on all plans and plats with a description of what lots the easement is proposed to serve. Final Plats creating driveway easements must contain a note that conveys maintenance responsibility of the easement to the home owners utilizing it to access their property. The note shall specifically state that the easement(s) must be maintained to allow clear passage for emergency response vehicles. Driveway easements are not subject to the requirements for public or private roads.

M. Public and Private Road Standards

All conservation subdivisions with proposed roads and rights-of-way shall follow the standards in Section 7.2.

- (1) The Planning Department may accept public rights-of-way in conservation subdivisions of 15 or fewer lots.
- (2) Conservation subdivisions of 15 or fewer lots shall follow the provisions of Section 3 in order to record a final plat prior to completion of the required improvements.

N. Review and Approval

- (1) Conservation subdivisions of fifteen (15) or fewer Lots are reviewed and approved by the Planning Department using the following process:
 - a. The applicant shall submit the required number of prints of the plat to the Planning Department. Applicants shall pay any administrative fee established by the County at the time of the application or request. The staff shall inform the applicant of necessary modifications to the plat. Conservation Subdivisions involving access to more than two lots shall have the access road name approved by the Emergency Operations Center (EOC) and Board of Commissioners.
 - b. Where public service is available, public sewer shall be provided and installed in such a manner as to serve adequately all lots within the subdivision. Where public service is not available, a soil scientist, licensed in North Carolina, shall certify that suitable soils are available for each lot in accordance with applicable state and local rules. The Chatham County Environmental Health Department will review soil scientist reports and maps and indicate its' adequacy prior to proceeding with final plat approval. Installation of all sewage

disposal systems shall conform to appropriate regulations of any governmental agency having jurisdiction thereof.

- c. The Planning Department shall review the plat and if everything is in order, the Director of Planning or his/her authorized agent shall approve the plat. (See Appendices)
- d. The plat shall be submitted for recording by the applicant within the time limit specified in these regulations.
- e. In order for a subdivision to be processed under these provisions, the following requirements must be met:

(1) The plat must meet all requirements and standards for Final Plats as required in section 6.4.

(2) There can be no variances requested from the subdivision regulations.

(3) There cannot be, as a result of such subdivision, a creation of any lots which fail to meet all requirements of the subdivision regulations.

(4) No subdivider may use the this procedure in the same immediate location (approximately fifteen hundred [1,500] feet) for a period of twelve (12) months after getting subdivision approval using said procedure in said location, if he/she owns, has an option on, or has any legal interest in any property adjacent to the property to be subdivided.

(5) Additional street right-of-way dedication shall be shown on the plat in cases where the existing right-of-way does not meet the present minimum right-of-way width.

(6) If a conservation subdivision does not meet the above listed requirements it shall be reviewed as a major subdivision, unless otherwise provided.

- f. Any appeals of a staff decision regarding a Conservation Subdivision shall follow the process in Section 5.2(F).

- (2)** Conservation subdivisions in excess of fifteen (15) lots shall be reviewed as a major subdivision.