

ORANGE COUNTY PLANNING DEPARTMENT  
131 W. MARGARET LANE, SUITE 201  
HILLSBOROUGH, NORTH CAROLINA 27278



**AGENDA**  
**ORANGE COUNTY PLANNING BOARD**

**ORANGE COUNTY WEST CAMPUS OFFICE BUILDING**  
**131 WEST MARGARET LANE – LOWER LEVEL CONFERENCE ROOM (ROOM #004)**  
**HILLSBOROUGH, NORTH CAROLINA 27278**  
**Wednesday, September 7, 2016**  
**Ordinance Review Committee Meeting – 6:15 pm**

**Note:** This is a meeting of the Ordinance Review Committee (ORC) for Planning Board members who would like to review and comment on proposed amendments before the items are formally considered by the Planning Board. Attendance is not mandatory and a quorum is not necessary for meetings of the ORC.

No.	Page(s)	Agenda Item
1.		<b>CALL TO ORDER</b>
2.	2 - 11	<b>UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS – TABLE OF PERMITTED USES</b>  To review and comment upon proposed amendments to the Table of Permitted Uses that will clarify permitted and prohibited uses.  <b>Presenter:</b> Michael Harvey, Current Planning Supervisor
3.	12 - 106	<b>UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS – SUBDIVISION REGULATIONS</b>  To review and comment upon proposed amendments to the UDO pertaining to subdivisions, particularly minor subdivisions.  <b>Presenter:</b> Patrick Mallett, Planner II
4.	107 - 141	<b>UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENTS – RURAL MASTER PLAN CONDITIONAL ZONING DISTRICT</b>  To review and comment upon proposed amendments to the UDO that would establish a Rural Master Plan Conditional Zoning District (CZD).  <b>Presenter:</b> Michael Harvey, Current Planning Supervisor
5.		<b>ADJOURNMENT</b>

**ORANGE COUNTY  
PLANNING BOARD ORDINANCE REVIEW COMMITTEE  
ACTION AGENDA ITEM ABSTRACT  
Meeting Date: September 7, 2016**

**Action Agenda  
Item No. 2**

**SUBJECT:** Unified Development Ordinance (UDO) Text Amendments – Permitted Use Table Clarifying Permitted and Prohibited Land Uses

---

**DEPARTMENT:** Planning and Inspections

---

**ATTACHMENT(S):**

**INFORMATION CONTACT:**

- |   |  |
|---|--|
| <ol style="list-style-type: none"> <li>1. Comprehensive Plan and Unified Development Ordinance (UDO) Amendment Outline Form</li> <li>2. Permitted Use Issue Examples</li> </ol> | <p>Michael D. Harvey, Planner III (919) 245-2597<br/>Craig Benedict, Director (919) 245-2575</p> |
|---|--|
- 

**PURPOSE:** To review and comment upon proposed government-initiated Unified Development Ordinance (UDO) text amendment regarding modifications to the tables of permitted uses.

**BACKGROUND:** Section(s) 5.2.1 through 5.2.3 of the UDO contains the table of permitted uses spelling out allowable land uses within various zoning districts (i.e. general use, economic development, and conditional zoning districts).

In most circumstances when a development proposal is submitted staff ascertains if the use is either specifically listed (i.e. single-family residence, church, restaurant, etc.) or falls into an established land use category (i.e. paper manufacture allowed in light industrial) to make the determination if the use is permitted or not.

In November of 2015 the State Supreme Court in *Byrd versus Franklin County* rejected the argument that the mere omission/listing of a particular land use within a table of permitted uses constituted a prohibition of same. The Court stated: ‘... *law favors uninhibited free use of private property over government restrictions*’. In consultation with the County Attorney’s office, staff has determined the permitted use table(s) need to be modified to ensure compliance with the aforementioned court case clarifying allowable/prohibited land uses and ensuring uniformity amongst the various existing tables.

An example of the challenge faced is the manner in which permitted uses are identified within each individual table. Section 5.2.1 *Table of Permitted Uses – General Use Zoning Districts* combines several ‘Manufacturing, Assembly, and Processing’ land use types into 1 of 3 ‘industrial’ categories (i.e. light, medium, and heavy). Within Section 5.2.2 *Table of Permitted Uses – Economic Development Districts*, however, specific individual land uses are listed identifying where same are allowed.

It is this inconsistency in how allowable land uses are listed/categorized that represents a problem we need to address to ensure compliance with *Byrd*.

Staff is proposing to have a general discussion with the Ordinance Review Committee (ORC) at its September 7, 2016 meeting to discuss the issue and identify possible solutions. More detailed text amendments will be presented at a future ORC meeting for final review and comment prior to the Planning Board making a recommendation at its December 7, 2016 regular meeting.

Attachment 1 contains additional information and analysis regarding this amendment. Staff has provided examples of various inconsistencies for review/discussion in Attachment 2 focusing on the 'Manufacturing, Assembly, and Processing' and the 'Commercial Use' land use categories as currently contained in Section 5.2.1 of the UDO.

**FINANCIAL IMPACT:** Consideration and approval will not create the need for additional funding for the provision of County services. Existing staff, included in the Departmental staffing budget, will accomplish the work required to process this amendment.

**RECOMMENDATION(S):** Planning staff recommends the Ordinance Review Committee review and comment upon the proposed amendments to the UDO.

# COMPREHENSIVE PLAN / FUTURE LAND USE MAP AND UNIFIED DEVELOPMENT ORDINANCE (UDO) AMENDMENT OUTLINE

UDO / Zoning-2016-05

Amendment(s) to permitted use tables clarifying permitted and prohibited land uses.

## A. AMENDMENT TYPE

### Map Amendments

- Comprehensive Plan – Future Land Use Element Map:  
From: - - -  
To: - - -
- Zoning Map:  
From: - - -  
To: - - -
- Other:

### Text Amendments

- Comprehensive Plan Text:

Section(s):

- UDO Text:

- UDO General Text Changes  
 UDO Development Standards  
 UDO Development Approval Processes

Section(s): Section(s)

1. Article 5 *Uses*,
2. 5.2.1 and 5.2.2 *Table of Permitted Uses*,
3. Article 10 *Definitions*

- Other:

## B. RATIONALE

### 1. Purpose/Mission

In accordance with the provisions of Section 2.8 *Zoning Atlas and Unified Development Ordinance Amendments* of the UDO, the Planning Director is

proposing to initiate text amendments to clarify allowable and prohibited land uses within the various general use zoning districts throughout the County.

These amendments are in response to recent court decisions, most notably action by the State Supreme Court in *Byrd versus Franklin County*, placing the onus on local governments to have sufficient specificity 'spelling out' allowable and prohibited land uses.

## 2. Analysis

As required under Section 2.8.5 of the UDO, the Planning Director is required to: '*cause an analysis to be made of the application and, based upon that analysis, prepare a recommendation for consideration by the Planning Board and the Board of County Commissioners*'.

Section(s) 5.2.1 through 5.2.3 of the UDO contains the table of permitted uses spelling out allowable land uses. In many instances the table contains broad land use categories, such as *Recreational Facilities* or *Sexually Oriented Businesses*, intended to represent multiple, individual, land uses. When a development proposal is submitted, staff ascertains if the use is either:

- a. Specifically listed (i.e. single-family residence, church, restaurant, etc.)
- or
- b. Falls into an established land use category (i.e. a baseball field open to the public would be classified as a *Recreational Facilities*).

and processes the request accordingly. If the proposed use is not specifically listed, or is determined to be inconsistent with existing land use categories, it is considered prohibited.

In November of 2015 the State Supreme Court in *Byrd versus Franklin County* rejected the argument that the mere omission/listing of a particular land use within a table of permitted uses constituted a prohibition of same. The Court stated: '*... law favors uninhibited free use of private property over government restrictions*'. A copy of the Court's ruling in the Franklin County case can be viewed at: <https://appellate.nccourts.org/opinions/?c=1&pdf=33680>.

In reviewing this decision, staff and the Attorney's office have determined modifications to the County's land use regulations are necessary. The amendment seeks to:

- i. Clarify prohibited land uses,
- ii. Provide specificity for existing land use categories making it easier to identify what land uses are allowed within them,
- iii. Establish the 'factors/criteria' staff considers when making a determination if a proposed land use is consistent, and
- iv. Ensure uniformity within the individual tables (i.e. a retail operation is not listed/defined differently in the various general use zoning districts).

Taking these steps will provide more clarity for landowners and staff with respect to allowable and prohibited uses as well as make the regulations more legally

defensible.

The UNC School of Government has produced summaries on this topic, which can be viewed at <http://canons.sog.unc.edu/dealing-with-land-uses-not-specifically-addressed-in-a-zoning-ordinance-the-saga-continues/> as well as <http://canons.sog.unc.edu/does-zoning-have-to-provide-a-place-for-everything/>.

### 3. **Comprehensive Plan Linkage (i.e. Principles, Goals and Objectives)**

**Land Use Goal 2:** Land uses that are appropriate to on-site environmental conditions and features and that protect natural resources, cultural resources, and community character.

**Land Use Goal 4:** Land development regulations, guidelines, techniques and/or incentives that promote the integrated achievement of all Comprehensive Plan goals.

**Land Use Goal 6:** A land use planning process that is transparent, fair, open, efficient, and responsive.

### 4. **New Statutes and Rules**

The amendment(s) are in response to recent court decisions, Byrd versus Franklin County, as detailed herein.

## v. **PROCESS**

### 1. **TIMEFRAME/MILESTONES/DEADLINES**

- a. BOCC Authorization to Proceed

May 5, 2016

- b. Quarterly Public Hearing

February 16, 2017

- c. BOCC Updates/Checkpoints

May 5, 2016 – Approval of UDO Amendment Outline Form

September 7 and November 2, 2016 – Planning Board Ordinance Review Committee (ORC) meeting (BOCC received agenda materials)

December 7, 2016 – Planning Board meeting (BOCC received agenda materials)

- d. Other

N/A

### 2. **PUBLIC INVOLVEMENT PROGRAM**

**Mission/Scope:** Public Hearing process consistent with NC State Statutes and Orange County ordinance requirements

\_\_\_\_\_

a. Planning Board Review:

September 7 and November 2, 2016 – Ordinance Review Committee  
December 7, 2016 – Recommendation  
\_\_\_\_\_  
\_\_\_\_\_

b. Advisory Boards:

N/A  
\_\_\_\_\_  
\_\_\_\_\_

c. Local Government Review:

Staff shall transmit the proposed amendment(s) to the Towns of Chapel Hill, Carrboro, and Hillsborough for JPA and courtesy review.  
\_\_\_\_\_  
\_\_\_\_\_

d. Notice Requirements

Legal advertisement for the public hearing shall be in accordance with the provisions of the UDO.

e. Outreach:

General Public: \_\_\_\_\_  
 Small Area Plan Workgroup: \_\_\_\_\_  
 Other: \_\_\_\_\_

**3. FISCAL IMPACT**

Consideration and approval will not create the need for additional funding for the provision of County services. Costs for the required legal advertisement will be paid from departmental funds budgeted for this purpose. Existing Planning staff included in the Departmental staffing budget will accomplish the work required to process this amendment.

**vi. AMENDMENT IMPLICATIONS**

The amendment will provide additional clarity on permitted and prohibited land uses.

**vii. SPECIFIC AMENDMENT LANGUAGE**

Please refer to Attachment 2.

**Primary Staff Contact:**

Michael D. Harvey

Planning

(919) 245-2597

mharvey@orangecountync.gov

<b>Manufacturing, Assembly and Processing:</b>		
General Use	Economic Development	Conditional Use
Assembly and Packaging Operations Including Distribution and Mail Order Houses, But Excluding On-Premises Retail Outlets	Not Specifically Listed as assembly/packaging operation. Reference made to a 'mail order house' being allowed within the 'Retail' land use category within the EDD table of permitted uses.	Listed consistent with General Use Zoning Table of Permitted Uses
Industrial, Heavy ~	Not Specifically Listed as Heavy, Medium, Industrial - uses are specifically listed within the table - example(s) Industrial Machinery (see listing below) <ul style="list-style-type: none"> <li>• Engines and turbines</li> <li>• Farm/garden machinery and equipment</li> <li>• General industrial machinery and equipment; e.g., purification equipment, ball and roller bearings, etc.</li> <li>• Metalworking machinery and equipment</li> <li>• Office, computing, and accounting machines</li> <li>• Special industrial machinery; e.g., textile machinery</li> </ul>	Listed consistent with General Use Zoning Table of Permitted Uses
Industrial, Light ~	Not Specifically Listed as Heavy, Medium, Industrial - uses are specifically listed within the table - example(s): Electronic Equipment (see listing below) <ul style="list-style-type: none"> <li>• Communications equipment</li> <li>• Electric lighting and wiring equipment</li> <li>• Electric transmission and distribution</li> <li>• Electrical industrial apparatus</li> <li>• Electronic components and accessories</li> <li>• Household appliances</li> <li>• Radio and television receiving equipment</li> </ul>	Listed consistent with General Use Zoning Table of Permitted Uses
Industrial, Medium ~	Not Specifically Listed as Heavy, Medium, Industrial - uses are specifically listed within the table - example(s): Fabricated Metal Products (see listing below) <ul style="list-style-type: none"> <li>• Cutlery and hand tools</li> <li>• Fabricated structural metal products</li> <li>• Heating equipment, except electric and warm air; and plumbing fixture</li> <li>• Metal cans and shipping containers</li> <li>• Nuts, bolts, screws, rivets, and washers</li> </ul> Food Products (see listing below) <ul style="list-style-type: none"> <li>• Bakery</li> <li>• Bottling plants</li> <li>• Dairy</li> </ul>	Listed consistent with General Use Zoning Table of Permitted Uses
Microbrewery, production only ^	Considered Food Products - bottling plant	Listed consistent with General Use Zoning Table of Permitted Uses
Printing & Lithography	Listed as Printing and Publishing Establishments	Listed consistent with General Use Zoning Table of Permitted Uses
Sawmills ~	Not Specifically Listed (could be interpreted as being allowed as part of a furniture manufacture but not as an independent land use)	Listed consistent with General Use Zoning Table of Permitted Uses
Winery, production only ^	Not Specifically Listed	Listed consistent with General Use Zoning Table of Permitted Uses
	Manufacturing (Sector 31-33) (Hillsborough EDD only; all activities must be wholly within building) - no specific list of uses - references using a code not maintained by the County	

Retail:		
General Use	Economic Development	Conditional Use
Not listed this way under the General Use zoning district land uses - Listed as Commercial Uses	EDD Table of Permitted Uses includes: finance, retail and, service land use categories where these activities are listed as being permitted	Listed consistent with the General Use Zoning Table of Permitted Uses
Banks & Financial Institutions	Listed under finance land use category	
Beauty & Barber Shops	Listed under service land use category	
Country Store	Listed as 'retail trade' under retail land use category (County store not listed)	
Drive In Theaters ~	Not specifically listed	
Funeral Homes ~	Listed under service land use category	
Garden Center	Staff would consider a retail operation (i.e. Retail Trade) within EDD	
Hotels & Motels ~	Listed under service land use category	
Junkyards ~	Not specifically listed	
Kennels, Class II ~ ^	Listed under the Agricultural Uses land use category within EDD	
Laundry & Dry Cleaning Services	Listed under service land use category	
Massage, Business of	Not specifically listed - could fall under the Services land use category	
Microbrewery with Minor Events ^	Not specifically listed	
Nightclubs, Bars, Pubs	Listed as only being allowed as an accessory to a hotel/motel/restaurant within the Retail land use category	
Offices & Personal Services, Class 1	No 'class' of office/personal service in EDD table. There are lists of 'services' and 'finance' land uses contained within table	
Offices & Personal Services, Class 2		
Offices & Personal Services, Class 3		
Repair Service Electronic & Appliance	Listed under service land use category	
<b>Retail (continued)</b>		

General Use	Economic Development	Conditional Use
Restaurants: Carry Out	Listed under retail land use category	
Restaurants: Drive In	Listed under retail land use category	
Restaurants: General	Listed under retail land use category	
Retail, Class 1	No 'class' of retail service listed in EDD table. There are lists of 'retail' operations within the EDD table.	
Retail, Class 2		
Retail, Class 3		
Rural Guest Establishment: Bed & Breakfast ^	Not specifically listed	
Rural Guest Establishment: Bed & Breakfast Inn ^	Not specifically listed	
Rural Guest Establishment: Country Inn ^	Not specifically listed	
Sexually Oriented Businesses	Not permitted	
Storage of Goods, Outdoor ~	Listed under the miscellaneous land use category in EDD table.	
Storage or Warehousing: Inside Building	Listed under the miscellaneous land use category in EDD table.	
Studio (Art)	Listed under service land use category	
Taxidermy ^	Not specifically listed	
Tourist Home	Not specifically listed	
Wholesale Trade ~	Separate land use category under the EDD table with a list of specific land uses	
Winery with Minor Events ^	Not specifically listed	

**ORANGE COUNTY  
PLANNING BOARD ORDINANCE REVIEW COMMITTEE  
ACTION AGENDA ITEM ABSTRACT  
Meeting Date: September 7, 2016**

**Action Agenda  
Item No. 3**

**SUBJECT:** Unified Development Ordinance (UDO) Text Amendments - Subdivision Regulations and Processes

---

**DEPARTMENT:** Planning and Inspections

---

**ATTACHMENT(S):**

**INFORMATION CONTACT:**

- |  |               |   |  |
|--|---------------|---|--|
| 1. Comprehensive Plan and Development Ordinance Amendment Outline Form | Unified (UDO) | Patrick Mallett, Planner II<br>Michael D. Harvey, Planner III<br>Craig Benedict, Director | (919) 245-2577<br>(919) 245-2597<br>(919) 245-2592 |
| 2. Proposed Amendments   |               |   |  |
- 

**PURPOSE:** To review and comment upon a proposed government-initiated Unified Development Ordinance (UDO) text amendment regarding subdivision regulations and review processes.

**BACKGROUND:** In response to a petition submitted by Commissioner Pelissier, staff conducted a work session with the BOCC on February 18, 2016 to review current subdivision regulations and discuss opportunities for allowing for more flexibility with respect to residential development.

During this work session, staff recommended revisions to the Article 7 *Subdivisions* of the UDO that would encourage clustered development with smaller lot sizes and require more dedicated common open space. Staff also recommended allowing for additional parcels to be created through the Minor Subdivision process if the applicant would dedicate a specific percentage of the project as open space as well as allowing for greater opportunities for the use of off-site septic systems rather than requiring on-lot wastewater treatment/disposal.

The proposed text change also recommends the consolidation of “Cluster” and “Flexible Development” options into one category and seeks to standardize the types of open space and conservation areas utilized for both Major and Minor Residential subdivisions.

Attachment 1 contains additional information and analysis regarding this amendment. Proposed text amendment language can be found in Attachment 2 within a “track changes” format.

**FINANCIAL IMPACT:** Consideration and approval will not create the need for additional funding for the provision of County services. Existing staff, included in the Departmental staffing budget, will accomplish the work required to process this amendment.

**RECOMMENDATION(S):** Planning staff recommends the Ordinance Review Committee review and comment upon the proposed amendments to the UDO.

# COMPREHENSIVE PLAN / FUTURE LAND USE MAP AND UNIFIED DEVELOPMENT ORDINANCE (UDO) AMENDMENT OUTLINE

UDO / Zoning-2016-06

Revision of subdivision regulations and processes.

## A. AMENDMENT TYPE

**Map Amendments**

- Comprehensive Plan – Future Land Use Element Map:  
From: - - -  
To: - - -
- Zoning Map:  
From: - - -  
To: - - -
- Other:

**Text Amendments**

Comprehensive Plan Text:  
Section(s):

- UDO Text:
  - UDO General Text Changes
  - UDO Development Standards
  - UDO Development Approval Processes

Section(s): Section(s)

1. 2.1: *Review and decision Making Authority;*
2. 2.14: *Minor Subdivisions;*
3. 3.3: *Residential Districts;*
4. 5.5: *Standards for Residential Use;*
5. 6.2: *Lot and Building Standards;*
6. Article 7, *Subdivisions;* and
7. Article 10 *Definitions.*

Other:

## B. RATIONALE

### 1. Purpose/Mission

In accordance with the provisions of Section 2.8 *Zoning Atlas and Unified Development Ordinance Amendments* of the UDO, the Planning Director is proposing to initiate text amendments to modify existing subdivision development requirements and review processes in an effort to provide additional opportunities for the clustering of subdivision lots and preservation of open space.

This item is being developed to address a petition previously submitted by Commissioner Pelissier on ways to encourage and promote the additional clustering of residential lots and preservation of open space.

### 2. Analysis

As required under Section 2.8.5 of the UDO, the Planning Director is required to: *'cause an analysis to be made of the application and, based upon that analysis, prepare a recommendation for consideration by the Planning Board and the Board of County Commissioners'*.

In response to a petition submitted by Commissioner Pelissier, staff conducted a work session with the BOCC on February 18, 2016 to:

- a. Review the County's subdivision development and review processes,
- b. Discuss minimum lot size and density limitations/requirements, and
- c. Identify opportunities and constraints associated with the clustering of subdivision lots.

Agenda materials from this meeting can be viewed

at: [http://www.orangecountync.gov/document\\_center/BOCCAgendaMinutes/160218.pdf](http://www.orangecountync.gov/document_center/BOCCAgendaMinutes/160218.pdf).

During this work session, staff recommended modifying existing subdivision standards/regulations, including:

- i. Elimination of the Cluster Development subdivision type, as currently contained in Section 7.12 of the UDO,
- ii. Revisions to existing language allowing the use of off-site septic for wastewater processing,
- iii. Allowing for lots to be clustered smaller than the 40,000 sq.ft. limit as detailed in Section 7.13.4 (B) (6) of the UDO, and
- iv. Revising submittal and review processes to give greater flexibility to projects proposing clustering of lots and dedication of open space,

The goal is to revise existing development standards in an effort to encourage purposeful growth and development within the County in a cost efficient manner while promoting the perpetual maintenance/preservation of open space areas.

### 3. Comprehensive Plan Linkage (i.e. Principles, Goals and Objectives)

Chapter 2 *Planning Principles* of the Comprehensive Plan:

- Principle 2 – Sustainable Growth and Development: Growth and development within the county should occur in a pattern, location, and density that is sustainable over the long-term.
- Principle 4 – Natural Area Resource Preservation: Protection of the County’s natural areas, including forests, wildlife, habitat, and other important open spaces, should be a priority. The County should work with regional and local organizations, the towns, and private landowners to promote and achieve preservation of the County’s important natural resources.

Chapter 4 *Housing Element* of the Comprehensive Plan:

- Housing Goal 1 – A wide-range of types and densities of quality housing affordable to all in all parts of the County.
- Housing Goal 4 - Development ordinances and incentives that promote inclusionary practices and housing options for all income levels.

Chapter 5 *Land Use Element* of the Comprehensive Plan:

- Land Use Goal 1 – Fiscally and environmentally responsible, sustainable growth consistent with the provision of adequate services and facilities and a high quality of life.
- Land Use Goal 2 – Land uses that are appropriate to on-site environmental conditions and features and that protect natural resources, cultural resources, and community character.
- Land Use Goal 3 – A variety of land uses that are coordinated within a program and pattern that limits sprawl, preserves community and rural character, minimizes land use conflicts, and supported by an efficient and balanced transportation system.
- Land Use Goal 4 – Land development regulations, guidelines, techniques, and/or incentives that promote the integrated achievement of all Comprehensive Plan goals.

**4. New Statutes and Rules**

N/A

## C. PROCESS

**1. TIMEFRAME/MILESTONES/DEADLINES**

- a. BOCC Authorization to Proceed

May 5, 2016

- b. Quarterly Public Hearing

November 21, 2016

- c. BOCC Updates/Checkpoints

May 5, 2016 – Approval of UDO Amendment Outline Form  
 September 7, 2016 – Planning Board Ordinance Review Committee (ORC) meeting (BOCC receives agenda materials)  
 October 5, 2016 – Planning Board Meeting (BOCC receives agenda materials)

d. Other

N/A

**2. PUBLIC INVOLVEMENT PROGRAM**

**Mission/Scope:** Public Hearing process consistent with NC State Statutes and Orange County ordinance requirements

a. Planning Board Review:

September 7, 2016 – Ordinance Review Committee  
 October 5, 2016 – Recommendation

b. Advisory Boards:

Staff will forward proposal to the Commission for the Environment for review and comment.

\_\_\_\_\_  
 \_\_\_\_\_

c. Local Government Review:

Staff shall transmit the proposed amendment(s) to the Towns of Chapel Hill, Carrboro, and Hillsborough for JPA and courtesy review.

\_\_\_\_\_  
 \_\_\_\_\_

d. Notice Requirements

Legal advertisement for the public hearing shall be in accordance with the provisions of the UDO.

e. Outreach:

General Public: Staff held two open house meetings to review and discuss options on proposed subdivision amendments on July 20, 2016.  
 Staff coordinated the release of a press release with the Manager’s office advertising the time/date/location of the open house meetings.  
 The first meeting occurred at 2:00 p.m. and was attended by land surveyors and engineers who have gone through a

subdivision review with the County. The session was attended by approximately 12 people. The second meeting, which was open to the general public, was held at 5:30 p.m. and was attended by approximately 6 people.

Small Area Plan Workgroup:

Other:

### 3. **FISCAL IMPACT**

Consideration and approval will not create the need for additional funding for the provision of County services. Costs for the required legal advertisement will be paid from departmental funds budgeted for this purpose. Existing Planning staff included in the Departmental staffing budget will accomplish the work required to process this amendment.

## D. AMENDMENT IMPLICATIONS

The amendment(s) will encourage more efficient and sustainable land uses, which in turn lessen public costs for services, promote diversity with respect to available housing types, and promote the preservation of additional land area as open space.

## E. SPECIFIC AMENDMENT LANGUAGE

Please refer to Attachment 2.

### **Primary Staff Contact:**

Patrick Mallett

Planning

(919) 245-2577

pmallett@orangecountync.gov

- (B) If the applicant is not the owner, or sole owner, of the land, a notarized letter signed by the owner(s) consenting to the submission of the application shall be submitted along with all required application information and materials.

### 2.2.2 Timely Processing of Applications

The Planning Director, Planning Board, Board of Adjustment, Board of County Commissioners and all other authorized review and decision-making bodies shall make every reasonable effort to process, review, and act on applications in a timely manner, consistent with the need to fully consider the application's proposed impact and ensure that it is consistent with the spirit and intent of the Orange County Comprehensive Plan and otherwise advances the public health, safety, and general welfare.

### 2.2.3 Burden Of Proof

The burden of demonstrating that an application complies with applicable submittal, review, and approval criteria is on the applicant.

### 2.2.4 Form of Application and Filing Fees

- (A) Unless a greater number is specified herein for a specific review procedure, three copies of all applications, including required supporting documentation, shall be submitted by the applicant. Applications detailing the submittal requirements for each type of application are available in the Planning Department office.
- (B) Officials responsible for accepting applications shall maintain a list specifying the materials and information to be submitted with each application filed. The list shall be made available to all applicants and to any other person who requests a copy.
- (C) The Planning Director is authorized to propose and promulgate administrative regulations, including but not limited to the type and amount of data required for a completed application, in order to implement the provisions of this Ordinance.
- (D) Applications must be accompanied by the fee amount that has been established by Board of County Commissioners. Application fees are nonrefundable.

### 2.2.5 Pre-application Conference

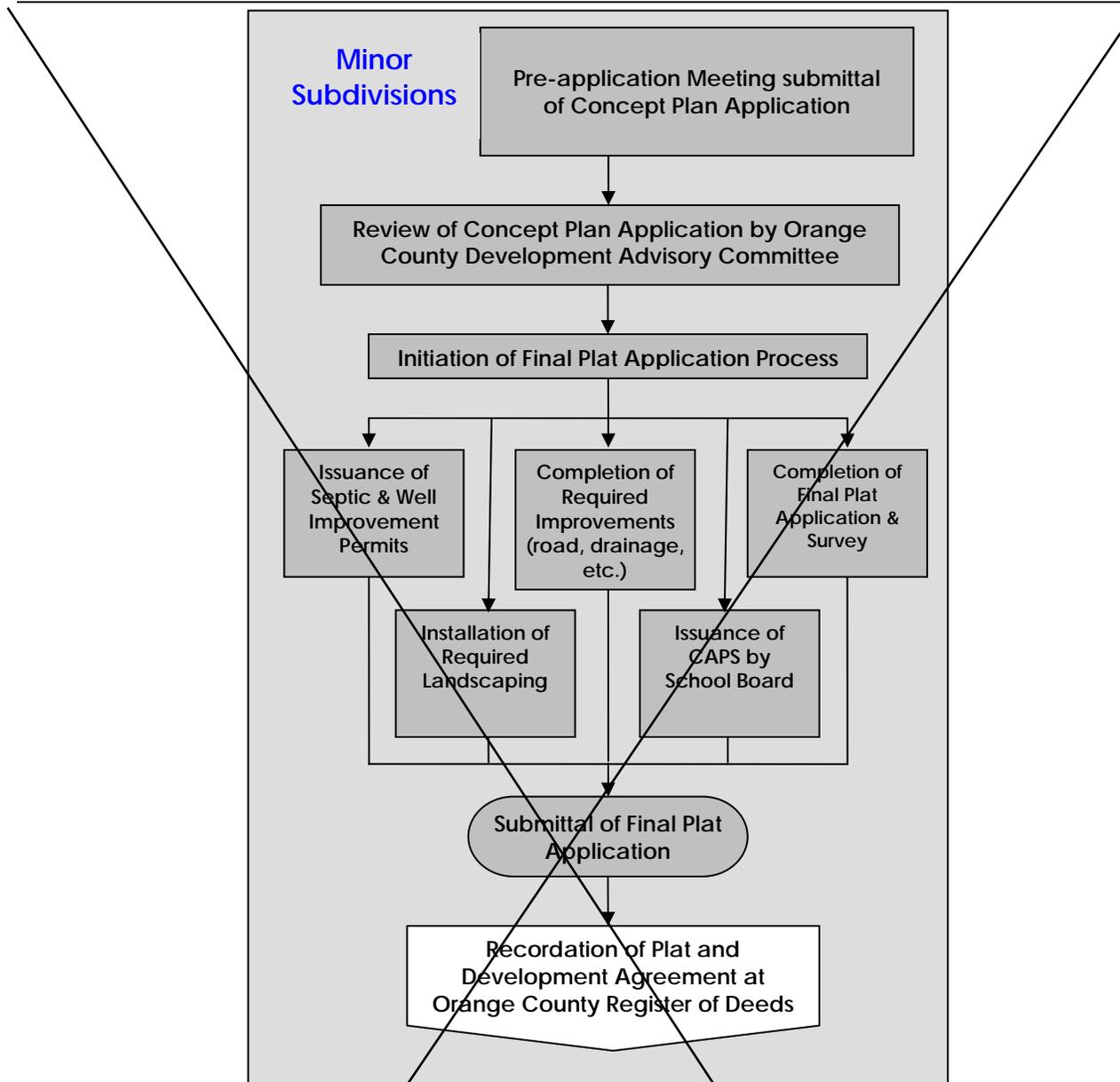
- (A) Prior to submittal of an application for review and approval of a:

- (1) Non-residential development,
- (2) Special Use Permit (SUP),
- (3) Conditional Use District (CUD),
- (4) Conditional Zoning District (CZD), ~~and/or~~
- (5) Major Subdivision and/or,
- (6) Minor Subdivisions Utilizing the Flexible Development Option.<sup>1</sup>

The applicant shall schedule a pre-application conference with the Planning Department.

- (B) In preparation for the pre-application conference, the applicant shall submit a sketch plan illustrating the location, size and major design elements of the proposed development no later than five working days prior to the pre-application meeting.
- (C) The Planning Department may request that representatives of other public agencies be present at the pre-application conference, including, but not limited to:

<sup>1</sup> Staff is recommending a pre-application conference be held to review the layout and identify additional opportunities and constraints for the applicant in those instances when a Flexible Development Option is selected. It is hoped a pre-application conference can identify any major impediments and allow staff to discuss possible alternatives to the proposed layout.



### 2.14.2 Concept Plan

The applicant shall prepare a sketch plan of the proposed subdivision and schedule an appointment with the Planning Department for initial review and consultation. During this initial meeting the Planning Department shall advise the subdivider or his/her authorized agent of the regulations pertaining to the proposed subdivision, of any obvious changes required in order to comply with the provisions of this Ordinance, and the procedures to be followed in the preparation and submission of the Concept Plan.

#### (A) Application Requirements

- (1) Applications shall be submitted on forms provided by the Planning Department in accordance with Section 2.2 of this Ordinance.
- (2) Applications shall include:
  - (a) Two copies of the scaled Concept Plan, drawn to the specifications outlined in Section 7.14.1.
  - (b) A vicinity map showing the location of the subdivision in relation to the existing street or highway system.
  - (c) A soils classification map for the property.

- (d) A topography map of the property.
- (e) A map showing any environmentally sensitive areas on the property (i.e. streams, wetlands, special flood hazard area zoning overlay districts, conservation easements, etc.).
- ~~(e)(f) For Minor Subdivisions utilizing the Flexible Development Option, a Plan illustrating proposed lots for residential use and Common Open Space (Primary and Secondary) as well as the treatment of passive and active open space areas (e.g., natural/undisturbed areas, trails, recreational amenities).<sup>2</sup>~~

**(B) Review and Action**

- (1) The Planning Department shall review the Concept Plan for general compliance with the requirements of this Ordinance.
- (2) A completed Concept Plan application shall be entered into the permit record and placed on the agenda of the next available meeting of the Development Advisory Committee (DAC).
- (3) The DAC shall review the Concept Plan for general compliance with established Subdivision development standards detailed in Article 7 of this Ordinance as well as compliance with other applicable local and State regulations.
  - (a) The review shall include determining the presence of any sites identified in "An Inventory of Sites of Cultural, Historic, Recreational, Biological and Geological Significance in the Unincorporated Portions of Orange County" and "Inventory of the Natural Areas and Wildlife Habitats of Orange County, North Carolina".
- (4) The DAC shall make a recommendation to the Planning Director regarding the application no later than five business days after the DAC meeting.
- (5) The Planning Director shall make a final determination on the approval or denial of the application within five business days from the submittal of the DAC recommendation.
- (6) If the application is approved, the Planning Director shall issue a letter of approval authorizing the applicant to begin the process of developing the Final Plat application package. The Concept Plan shall be valid for one year from the date of approval.
- (7) If the application is denied, the Planning Director shall issue a letter to the applicant detailing the reasons for denial and identifying modifications necessary for potential approval.

**2.14.3 Final Plat**

Upon approval of the Concept Plan by the Planning Director, the subdivider may proceed with the preparation of the Final Plat.

**(A) Application Requirements**

- (1) Applications shall be submitted on forms provided by the Planning Department in accordance with Section 2.2 of this Ordinance.
- (2) Applications shall include:
  - (a) Ten copies of the Final Plat prepared in accordance with Section 7.14.1(B) of this Ordinance;
  - (b) A copy of the Final Plat indicating Health Department approval/denial for each lot shown thereon;

<sup>2</sup> This is the same requirement for a major subdivision when choosing the Flexible Development Option

- (c) Auxiliary documents prepared in accordance with Article 7 of this Ordinance which assure completion and/or maintenance of required improvements. Such documents may include, but not be limited to, a private road maintenance agreement; escrow agreement or letter of credit by an approved institution; and guarantee of installation of any required road signs;
- (d) A copy of the Final Plat indicating approval of the plan to control sedimentation and erosion during construction of improvements. Where an erosion control plan is required, it shall comply with the provisions of Section 6.15 of this Ordinance. If an erosion control plan is not required, the copy of the Final Plat must be signed by the Erosion Control Officer certifying that a plan waiver has been approved or the amount of land disturbance on the site is not subject to the provisions of Section 6.15 of this Ordinance; and
- (e) A statement describing the methods proposed to protect environmental resources identified in "An Inventory of Sites of Cultural, Historic, Recreational, Biological and Geological Significance in the Unincorporated Portions of Orange County" and/or "Inventory of the Natural Areas and Wildlife Habitats of Orange County, North Carolina".

**(B) Review and Action**

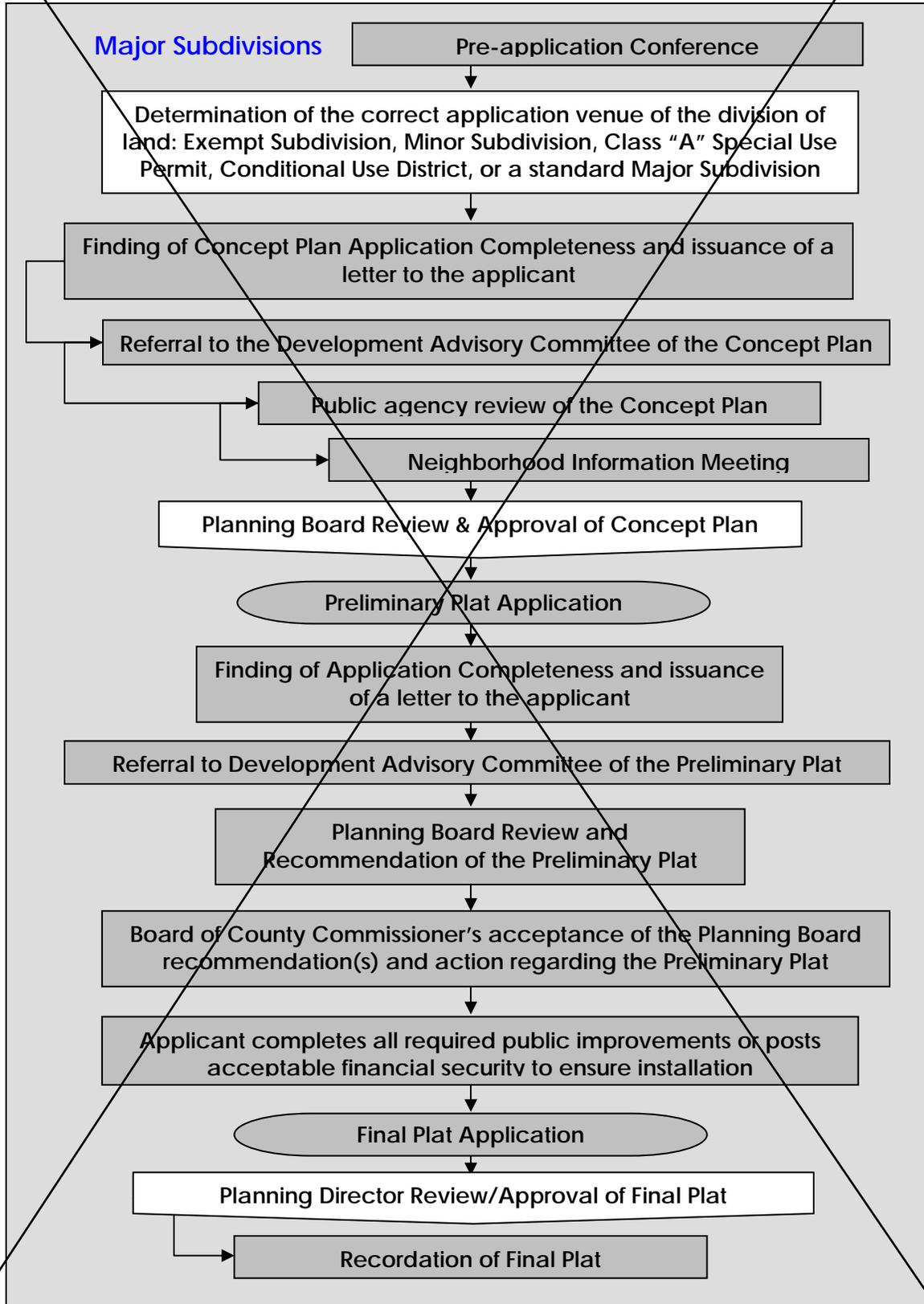
- (1) The Planning Director shall determine if the plat and application conform with all applicable regulations.
- (2) Auxiliary documents required by Article 7 shall be submitted by the Planning Director to the County Attorney for review and recommendation.
- (3) The Planning Director may submit copies of the Final Plat application and accompanying material to other officials and agencies for review and comment. Other potential reviewers include, but are not limited to:
  - (a) NC DOT,
  - (b) Orange County Schools,
  - (c) Orange County Land Records,
  - (d) County Attorney,
  - (e) Orange County Environmental Health,
  - (f) Orange County Erosion Control,
  - (g) Orange County Engineering, ~~and~~
  - (h) Public Utility Companies, and
  - ~~(i) Orange County Department of Environment, Agriculture, Parks and Recreation (DEAPR),~~<sup>3</sup>
- (4) Reviewers shall provide a certification to the Planning Director of the suitability, provisional suitability, or unsuitability of the proposal. Recommendations of the reviewers may be incorporated as conditions of approval of the subdivision.
- (5) The Planning Director shall take action on an application solely on his/her findings as to compliance with applicable regulations and conditions and shall either:
  - (a) Approve the application; or
  - (b) Approve the application with conditions; or

<sup>3</sup> Although part of the Development Advisory Committee (DAC) meeting process, staff is modifying this list to include DEAPR so that we receive their comment(s) on any final plat application.

**SECTION 2.15: MAJOR SUBDIVISIONS**

**2.15.1 Review and Decision Process Flow Chart**

The review and approval process for a Major Subdivision is shown in the procedure's flowchart.



## 2.15.2 Concept Plan

### (A) Pre-Application Review

To promote better communication and avoid unnecessary expense in the design of acceptable subdivision proposals, each subdivider is encouraged to meet with the Planning Department staff prior to submitting an application for Concept Plan approval. The purpose of this informal meeting is to introduce the applicant to the provisions of this Ordinance and discuss his/her objectives in relation thereto.

### (B) On-Site Visit

- (1) Prior to submission of a Concept Plan application, the applicant shall schedule a mutually convenient time to walk the property with the Planning Director. The purpose of this visit is to familiarize the Planning Director with the property's special features, and to provide an informal opportunity to offer guidance to the applicant regarding the tentative location of Secondary ~~Conservation~~ Open Space<sup>4</sup> Areas, potential dwelling locations, and potential street alignments.
- (2) Prior to scheduling the on-site visit, the applicant shall have prepared the Site Analysis Map as required in Section 7.14.2(A)(3) and shall submit the Site Analysis Map to the Planning Director when the on-site visit is scheduled.
- (3) If the on-site visit is not scheduled before submittal of the Concept Plan application, it shall occur prior to the Neighborhood Information Meeting.

### (C) Application Requirements

- (1) Applications shall be submitted on forms provided by the Planning Department in accordance with Section 2.2 of this Ordinance.
- (2) Applications shall include:
  - (a) An Orange County Geographic Information Systems (GIS) Map showing the location of the parcel to be subdivided.
  - (b) 25 copies of a Concept Plan of the proposed major subdivision prepared in accordance with the specifications for Concept Plan drawings as contained in Section 7.14.2(A) of this Ordinance. A Concept Plan shall include the following:
    - (i) A Site Analysis Map,
    - (ii) A Conventional Development Option; and
    - (iii) A Flexible Development Option.
- (3) In lieu of a three-part Concept Plan, one Concept Plan may be submitted if the applicant is seeking approval only of a Flexible Development Plan. The applicant may also combine the Site Analysis Map and the Flexible Development Option into a single plan, provided the information required in Section 7.14.2(A) is displayed in a clear and legible form. If an applicant chooses this option, he/she shall comply with the provisions for determining density contained in Section 7.13.7(A).
- (4) A comparison of the impacts of the Flexible Development Option to those that would result from the Conventional Development Option.
- (5) A checklist identifying consistency with applicable design guidelines as contained in Section 7.13.7.

<sup>4</sup> Modifying language to be consistent throughout the UDO.

**SECTION 3.3: RESIDENTIAL DISTRICTS**

<b>RB RURAL BUFFER</b>		<b>DIMENSIONAL AND RATIO STANDARDS</b>	
<b>PURPOSE</b>	<p>The purpose of the Rural Buffer (RB) District is to provide locations for rural residential developments and agricultural, silvicultural or horticultural uses which serve to buffer or separate more intensively planned and/or developed portions of Orange County. Development within the Rural Buffer (RB) District is at very low densities (the minimum lot size per dwelling unit is two acres) and relies on individual wells and ground absorption systems for domestic water supply and sewage disposal, respectively.</p>	Lot Size, min. (square feet)	87,120
<b>APPLICABILITY</b>		Lot Width, min. (feet)	130
<p>This district will usually be applied where the following conditions exist:</p> <ol style="list-style-type: none"> <li>Designated by the adopted Comprehensive Plan as Rural Buffer or by the adopted Joint Planning Area Land Use Plan as Rural Residential or both.</li> <li>Urban services, including water distribution and sewage collection mains, are not likely within 10-20 years.</li> </ol>		Front Setback from ROW, min. (feet)	40 [1]
		Corner Side Setback, min. (feet)	40 [2]
<p><b>DIMENSIONAL STANDARDS NOTES:</b></p> <p>[1] Accessory structures shall not be erected in any required front open space and shall also conform to all other regulations.</p> <p>[2] Any corner lot having an abutting interior lot on its side street shall observe a front yard setback from both streets provided, however, that this requirement does not reduce the width suitable for a building on said lot to less than 25 feet. (See graphic in Section 6.2.7).</p> <p>[3] Two feet of additional height shall be allowed for one foot increase of the required front and side setbacks.</p> <p>[4] R = residential, NR = non-residential, CU = conditional use</p> <p>[5] Permitted non-residential uses existing as of 5/6/98 shall be limited to a maximum floor area ratio of .141 in the RB, AR, R-1, R-2, R-3, and R-4 zoning districts.</p>	Side Setback, min. (feet)	20 [1]	
	Rear Setback, min. (feet)	20 [1]	
<p><b>RB DISTRICT SPECIFIC DEVELOPMENT STANDARDS</b></p> <ol style="list-style-type: none"> <li>Uses shall be restricted to those indicated for the RB District in Section 5.2, unless a Conditional Use (CU) or MPD-CZ District is approved (see Section 3.8).</li> <li>Development within the zoning district shall be subject to all applicable use standards detailed in Article 5 and all applicable development standards detailed in Article 6 of this Ordinance.</li> <li>While the Minimum Lot Size may be 87,120 square feet, the density permitted on a given parcel is based on the Watershed Protection Overlay District in which the property is located. Refer to Section 4.2.4 for a breakdown of the allowable density (i.e., the number of individual dwellings that can be developed on a parcel of property).</li> <li>Allowable impervious surface area is based on the Watershed Protection Overlay District in which the property is located. Refer to Section 4.2.5 for a breakdown of the allowable impervious surface area.</li> <li><del>For lots outside of a Watershed Protection Overlay District (see Section 4.2), the minimum usable lot area for lots that utilize ground absorption wastewater systems shall be 30,000 square feet for parcels between</del></li> </ol>	Height, max. (feet)	25 [3]	
	Floor Area Ratio, max.	R-CU [4]	.058
	Required Open Space Ratio, min.	NR	.088 [5]
		NR-CU	.100 [5]
	Required Livability Space Ratio, min.	R-CU	.75
	Required Recreation Space Ratio, min.	R	.028
		R-CU	.031
Gross Land Area, min. (square feet)	R-CU NR-CU	174.240	
Required Pedestrian/Landscape Ratio, min.	NR NR-CU	.21	

~~40,000 square feet and 1.99 acres in size; zoning lots two acres and greater in size shall have a minimum usable lot area of at least 40,000 square feet. Regardless of subdivision process, lot(s) within the RB general use zoning district shall not be reduced below 1.0 acre in area in accordance the Orange County Comprehensive Plan and the Joint Planning Land Use Plan and Agreement.~~<sup>5</sup>

6. With the exception of Orange County government development projects, wastewater treatment facilities with a design capacity of 3,000 gallons per day or more and package treatment plants for sanitary sewage disposal are prohibited in the RB zoning district unless approved through the Special Use Permit (SUP) process or as a Conditional Use (CU) District.
7. Proposed subdivisions are subject to all applicable subdivision standards detailed in Article 7. Note that Article 7 provides for different dimensional requirements than those shown in the Dimensional and Ratio Standards table depending upon the type of subdivision proposed and the percentage of open space provided. The "Village Option" for a flexible development is not permitted in the RB district.
8. Subdivisions ~~utilizing – following the conventional design process; and/or~~ proposing private roads are subject to larger setbacks and minimum lot sizes than those listed in the Dimensional and Ratio Standards. Refer to Section 7.8.4 for additional requirements. Refer to Section 7.8.5 for private road standards.<sup>6</sup>
9. The storage of junked or wrecked motor vehicles is prohibited except if the vehicle is stored in an enclosed building that conforms to applicable building code and zoning regulations or if such building is a legal non-conforming use.

<sup>5</sup> Parcels within the Rural Buffer can ~~only~~ be reduced to 1 acre in size only through any 'flexible development' subdivision process as detailed within the ~~aforementioned referenced~~ documents. Staff is modifying existing language to ensure consistency with these requirements.

<sup>6</sup> Private road justification is still required for all subdivisions following the conventional design model (i.e. not proposing separate open space). Staff is modifying existing language to ensure consistency with proposed changes to Article 7.

AR AGRICULTURAL RESIDENTIAL		DIMENSIONAL AND RATIO STANDARDS		
PURPOSE		Lot Size, min. (square feet)	40,000	
		Lot Width, min. (feet)	150	
<p>The purpose of the Agricultural Residential (AR) District is to assist in the preservation of land suitable, as a result of location, existing farming operations, soils and topography, for agricultural, silvicultural or horticultural uses and to protect such uses from the adverse effects of incompatible land uses.</p>		Front Setback from ROW, min. (feet)	40 [1]	
		Corner Side Setback, min. (feet)	40 [2]	
APPLICABILITY		Side Setback, min. (feet)	20 [1]	
<p>This district will usually be applied where the following conditions exist:</p> <ol style="list-style-type: none"> <li>Designated by the adopted Comprehensive Plan Agricultural Residential.</li> <li>Urban services, including water distribution and sewage collection mains, are not likely within 10-20 years.</li> </ol>		Rear Setback, min. (feet)	20 [1]	
		Height, max. (feet)	25 [3]	
<p>DIMENSIONAL STANDARDS NOTES:                      [1] Accessory structures shall not be erected in any required front open space and shall also conform to all other regulations.                      [2] Any corner lot having an abutting interior lot on its side street shall observe a front yard setback from both streets provided, however, that this requirement does not reduce the width suitable for a building on said lot to less than 25 feet. (See graphic in Section 6.2.7).                      [3] Two feet of additional height shall be allowed for one foot increase of the required front and side setbacks.                      [4] R = residential, NR = non-residential, CU = conditional use                      [5] Permitted non-residential uses existing as of 5/6/98 shall be limited to a maximum floor area ratio of .141 in the RB, AR, R-1, R-2, R-3, and R-4 zoning districts.</p>		Floor Area Ratio, max.	R-CU [4] .058	
			NR .088 [5]	
			NR-CU .100 [5]	
		Required Open Space Ratio, min.	R-CU NR NR-CU	.84
		Required Livability Space Ratio, min.	R-CU	.75
		Required Recreation Space Ratio, min.	R	.028
			R-CU	.031
		Gross Land Area, min. (square feet)	R-CU NR-CU	80,000
Required Pedestrian/Landscape Ratio, min.	NR NR-CU	.21		
<b>AR DISTRICT SPECIFIC DEVELOPMENT STANDARDS</b>				
<ol style="list-style-type: none"> <li>Uses shall be restricted to those indicated for the AR District in Section 5.2, unless a Conditional Use (CU) or MPD-CZ District is approved (see Section 3.8).</li> <li>Development within the zoning district shall be subject to all applicable use standards detailed in Article 5 and all applicable development standards detailed in Article 6 of this Ordinance.</li> <li>While the Minimum Lot Size may be 40,000 square feet, the density permitted on a given parcel is based on the Watershed Protection Overlay District in which the property is located. Refer to Section 4.2.4 for a breakdown of the allowable density (i.e., the number of individual dwellings that can be developed on a parcel of property).</li> <li>Allowable impervious surface area is based on the Watershed Protection Overlay District in which the property is located. Refer to Section 4.2.5 for a breakdown of the allowable impervious surface area.</li> <li>For lots outside of a Watershed Protection Overlay District (see Section 4.2), the minimum usable lot area for lots that utilize ground absorption wastewater systems shall be 30,000 square feet for parcels between 40,000 square feet and 1.99 acres in size; zoning lots two acres and greater in size shall have a minimum usable lot area of at least 40,000 square feet. <u>For Subdivisions utilizing the Flexible Development Option, the required wastewater system area may be contained either within the residential lot or within dedicated easement and/or septic lot that is recorded and maintained within allowed open space areas. Under the Flexible Development Option, required minimum lot size shall be based on proposed wastewater disposal</u></li> </ol>				

- and percentage of open space. Please refer to Section 7.12 for more information.<sup>7</sup>
6. With the exception of Orange County government development projects, wastewater treatment facilities with a design capacity of 3,000 gallons per day or more and package treatment plants for sanitary sewage disposal are prohibited in the AR zoning district unless approved through the Special Use Permit (SUP) process or as a Conditional Use (CU) District.
  7. Proposed subdivisions are subject to all applicable subdivision standards detailed in Article 7. Note that Article 7 provides for different dimensional requirements than those shown in the Dimensional and Ratio Standards table depending upon the type of subdivision proposed and the percentage of open space provided.
  8. Subdivisions ~~utilizing, following the conventional design process and/or,~~ proposing private roads are subject to larger setbacks and minimum lot sizes than those listed in the Dimensional and Ratio Standards. Refer to Section 7.8.4 for additional requirements. Refer to Section 7.8.5 for private road standards.
  9. The storage of junked or wrecked motor vehicles is prohibited except if the vehicle is stored in an enclosed building that conforms to applicable building code and zoning regulations or if such building is a legal non-conforming use.

---

<sup>7</sup> Under the proposed amendments to the Flexible Development –Option lot sizes can be reduced below 40,000 sq.ft. of land area. Staff is revising existing language to ensure consistency.

<h1 style="font-size: 2em; margin: 0;">R-1</h1> <h2 style="font-size: 1.2em; margin: 0;">RURAL RESIDENTIAL</h2>		DIMENSIONAL AND RATIO STANDARDS	
<b>PURPOSE</b>	Lot Size, min. (square feet)	40,000	
<p>The purpose of the Rural Residential (R-1) District is to provide locations for rural non-farm residential development, at very low intensities, in areas where the short and long-term solutions to domestic water supply and sewage disposal shall be individual wells and ground absorption system.</p>	Lot Width, min. (feet)	130	
	Front Setback from ROW, min. (feet)	40 [1]	
	Corner Side Setback, min. (feet)	40 [2]	
<b>APPLICABILITY</b>	Side Setback, min. (feet)	20 [1]	
<p>This district will usually be applied where the following conditions exist:</p> <ol style="list-style-type: none"> <li>1. Designated by the adopted Comprehensive Plan as Rural Residential.</li> <li>2. Urban services, including water distribution and sewage collection mains, are not likely within 10-20 years.</li> </ol>	Rear Setback, min. (feet)	20 [1]	
	Height, max. (feet)	25 [3]	
	<p><b>DIMENSIONAL STANDARDS NOTES:</b>                      [1] Accessory structures shall not be erected in any required front open space and shall also conform to all other regulations.                      [2] Any corner lot having an abutting interior lot on its side street shall observe a front yard setback from both streets provided, however, that this requirement does not reduce the width suitable for a building on said lot to less than 25 feet. (See graphic in Section 6.2.7).                      [3] Two feet of additional height shall be allowed for one foot increase of the required front and side setbacks.                      [4] R = residential, NR = non-residential, CU = conditional use                      [5] Permitted non-residential uses existing as of 5/6/98 shall be limited to a maximum floor area ratio of .141 in the RB, AR, R-1, R-2, R-3, and R-4 zoning districts.</p>	Floor Area Ratio, max.	R-CU [4]
		NR	.088 [5]
		NR-CU	.100 [5]
	Required Open Space Ratio, min.	R-CU NR NR-CU	.84
	Required Livability Space Ratio, min.	R-CU	.75
	Required Recreation Space Ratio, min.	R	.028
		R-CU	.031
	Gross Land Area, min. (square feet)	R-CU NR-CU	80,000
	Required Pedestrian/Landscape Ratio, min.	NR NR-CU	.21
<b>R-1 DISTRICT SPECIFIC DEVELOPMENT STANDARDS</b>			
<ol style="list-style-type: none"> <li>1. Uses shall be restricted to those indicated for the R-1 District in Section 5.2, unless a Conditional Use (CU) or MPD-CZ District is approved (see Section 3.8).</li> <li>2. Development within the zoning district shall be subject to all applicable use standards detailed in Article 5 and all applicable development standards detailed in Article 6 of this Ordinance.</li> <li>3. While the Minimum Lot Size may be 40,000 square feet, the density permitted on a given parcel is based on the Watershed Protection Overlay District in which the property is located. Refer to Section 4.2.4 for a breakdown of the allowable density (i.e., the number of individual dwellings that can be developed on a parcel of property).</li> <li>4. Allowable impervious surface area is based on the Watershed Protection Overlay District in which the property is located. Refer to Section 4.2.5 for a breakdown of the allowable impervious surface area.</li> <li>5. For lots outside of a Watershed Protection Overlay District (see Section 4.2), the minimum usable lot area for lots that utilize ground absorption wastewater systems shall be 30,000 square feet for parcels between 40,000 square feet and 1.99 acres in size; zoning lots two acres and greater in size shall have a minimum usable lot area of at least 40,000 square feet. <u>For Subdivisions utilizing the Flexible Development Option, the required wastewater system area may be contained either within the residential lot or within dedicated easement and/or septic lot that is recorded and maintained within allowed open space areas. Under the Flexible Development Option, required minimum lot size shall be based on proposed wastewater disposal</u></li> </ol>			

- and percentage of open space. Please refer to Section 7.12 for more information.
6. Proposed subdivisions are subject to all applicable subdivision standards detailed in Article 7. Note that Article 7 provides for different dimensional requirements than those shown in the Dimensional and Ratio Standards table depending upon the type of subdivision proposed and the percentage of open space provided.
  7. Subdivisions ~~utilizing, following the conventional design process and/or,~~ proposing private roads are subject to larger setbacks and minimum lot sizes than those listed in the Dimensional and Ratio Standards. Refer to Section 7.8.4 for additional requirements. Refer to Section 7.8.5 for private road standards.
  8. The storage of junked or wrecked motor vehicles is prohibited except if the vehicle is stored in an enclosed building that conforms to applicable building code and zoning regulations or if such building is a legal non-conforming use.

<b>R-2 LOW INTENSITY RESIDENTIAL</b>		<b>DIMENSIONAL AND RATIO STANDARDS</b>		
<b>PURPOSE</b>	The purpose of the Low Intensity Residential (R-2) District is to provide locations for low intensity residential development and supporting recreational, community service and educational uses in areas where urban services are available or are to be provided as part of the development process.	Lot Size, min. (square feet)	20,000	
<b>APPLICABILITY</b>	This district will usually be applied where the following conditions exist:  1. Designated by the adopted Comprehensive Plan as a Transition Area, which can reasonably be expected to be annexed by a municipality in the ensuing 10-20 years.  2. Water and sewer lines should exist at site or be assured of installation as part of the development process.  3. Vehicular access must consist of direct access to a street classified as either arterial or collector as designated by the adopted Comprehensive Plan.	Lot Width, min. (feet)	100	
		Front Setback from ROW, min. (feet)	30 [1]	
<b>APPLICABILITY</b>		Corner Side Setback, min. (feet)	30 [2]	
		Side Setback, min. (feet)	15 [1]	
<b>APPLICABILITY</b>		Rear Setback, min. (feet)	15 [1]	
		Height, max. (feet)	25 [3]	
<b>DIMENSIONAL STANDARDS NOTES:</b> [1] Accessory structures shall not be erected in any required front open space and shall also conform to all other regulations. [2] Any corner lot having an abutting interior lot on its side street shall observe a front yard setback from both streets provided, however, that this requirement does not reduce the width suitable for a building on said lot to less than 25 feet. (See graphic in Section 6.2.7). [3] Two feet of additional height shall be allowed for one foot increase of the required front and side setbacks. [4] R = residential, NR = non-residential, CU = conditional use. [5] Permitted non-residential uses existing as of 5/6/98 shall be limited to a maximum floor area ratio of .141 in the RB, AR, R-1, R-2, R-3, and R-4 zoning districts.		Floor Area Ratio, max.	R-CU [4]	.076
			NR	.088 [5]
			NR-CU	.100 [5]
		Required Open Space Ratio, min.	R-CU	.82
			NR-CU	.83
			NR	.83
		Required Livability Space Ratio, min.	R-CU	.70
		Required Recreation Space Ratio, min.	R	.056
			R-CU	.059
		Gross Land Area, min. (square feet)	R-CU NR-CU	45,000
Required Pedestrian/Landscape Ratio, min.	NR	.208		
	NR-CU	.205		
<b>R-2 DISTRICT SPECIFIC DEVELOPMENT STANDARDS</b>				
1.	Uses shall be restricted to those indicated for the R-2 District in Section 5.2, unless a Conditional Use (CU) or MPD-CZ District is approved (see Section 3.8).			
2.	Development within the zoning district shall be subject to all applicable use standards detailed in Article 5 and all applicable development standards detailed in Article 6 of this Ordinance.			
3.	While the Minimum Lot Size may be 20,000 square feet, the density permitted on a given parcel is based on the Watershed Protection Overlay District in which the property is located. Refer to Section 4.2.4 for a breakdown of the allowable density (i.e., the number of individual dwellings that can be developed on a parcel of property).			
4.	Allowable impervious surface area is based on the Watershed Protection Overlay District in which the property is located. Refer to Section 4.2.5 for a breakdown of the allowable impervious surface area.			
5.	For lots outside of a Watershed Protection Overlay District (see Section 4.2), the minimum usable lot area for lots that utilize ground absorption wastewater systems shall be 30,000 square feet for parcels between			

40,000 square feet and 1.99 acres in size; zoning lots two acres and greater in size shall have a minimum usable lot area of at least 40,000 square feet. For Subdivisions utilizing the Flexible Development Option, the required wastewater system area may be contained either within the residential lot or within dedicated easement and/or septic lot that is recorded and maintained within allowed open space areas. Under the Flexible Development Option required minimum lot size shall be based on proposed wastewater disposal and percentage of open space. Please refer to Section 7.12 for more information.

6. Proposed subdivisions are subject to all applicable subdivision standards detailed in Article 7. Note that Article 7 provides for different dimensional requirements than those shown in the Dimensional and Ratio Standards table depending upon the type of subdivision proposed and the percentage of open space provided.
7. Subdivisions, utilizing following the conventional design process, and/or proposing private roads are subject to larger setbacks and minimum lot sizes than those listed in the Dimensional and Ratio Standards. Refer to Section 7.8.4 for additional requirements. Refer to Section 7.8.5 for private road standards.
8. The storage of junked or wrecked motor vehicles is prohibited except if the vehicle is stored in an enclosed building that conforms to applicable building code and zoning regulations or if such building is a legal non-conforming use.

<b>R-3 MEDIUM INTENSITY RESIDENTIAL</b>	<b>DIMENSIONAL AND RATIO STANDARDS</b>			
	Lot Size, min. (square feet)	15,000		
<b>PURPOSE</b>	Lot Width, min. (feet)	100		
The purpose of the Medium Intensity Residential (R-3) District is to provide locations for moderate intensity residential development and supporting recreational, community service and educational uses in areas where urban services are available or are to be provided as part of the development process.	Front Setback from ROW, min. (feet)	30 [1]		
	Corner Side Setback, min. (feet)	30 [2]		
<b>APPLICABILITY</b>	Side Setback, min. (feet)	15 [1]		
This district will usually be applied where the following conditions exist:  1. Designated by the adopted Comprehensive Plan as a Transition Area, which can reasonably be expected to be annexed by a municipality in the ensuing 10-20 years.  2. Water and sewer lines should exist at site or be assured of installation as part of the development process.  3. Vehicular access must consist of direct access to a street classified as either arterial or collector as designated by the adopted Comprehensive Plan.	Rear Setback, min. (feet)	15 [1]		
	Height, max. (feet)	25 [3]		
<b>DIMENSIONAL STANDARDS NOTES:</b> [1] Accessory structures shall not be erected in any required front open space and shall also conform to all other regulations. [2] Any corner lot having an abutting interior lot on its side street shall observe a front yard setback from both streets provided, however, that this requirement does not reduce the width suitable for a building on said lot to less than 25 feet. (See graphic in Section 6.2.7). [3] Two feet of additional height shall be allowed for one foot increase of the required front and side setbacks. [4] R = residential, NR = non-residential, CU = conditional use. [5] Permitted non-residential uses existing as of 5/6/98 shall be limited to a maximum floor area ratio of .141 in the RB, AR, R-1, R-2, R-3, and R-4 zoning districts.	Floor Area Ratio, max.	R-CU [4]	.100	
		NR	.088 [5]	
		NR-CU	.100 [5]	
	Required Open Space Ratio, min.	R-CU	.80	
		NR	.81	
	Required Livability Space Ratio, min.	R-CU	.65	
	Required Recreation Space Ratio, min.	R	.074	
		R-CU	.077	
Gross Land Area, min. (square feet)	R-CU NR-CU	30,000		
Required Pedestrian/Landscape Ratio, min.	NR	.203		
	NR-CU	.20		
<b>R-3 DISTRICT SPECIFIC DEVELOPMENT STANDARDS</b>				
1. Uses shall be restricted to those indicated for the R-3 District in Section 5.2, unless a Conditional Use (CU) or MPD-CZ District is approved (see Section 3.8). 2. Development within the zoning district shall be subject to all applicable use standards detailed in Article 5 and all applicable development standards detailed in Article 6 of this Ordinance. 3. While the Minimum Lot Size may be 15,000 square feet, the density permitted on a given parcel is based on the Watershed Protection Overlay District in which the property is located. Refer to Section 4.2.4 for a breakdown of the allowable density (i.e., the number of individual dwellings that can be developed on a parcel of property). 4. Allowable impervious surface area is based on the Watershed Protection Overlay District in which the property is located. Refer to Section 4.2.5 for a breakdown of the allowable impervious surface area. 5. <b>For lots outside of a Watershed Protection Overlay District (see Section 4.2), the minimum usable lot area</b>				

~~for lots that utilize ground absorption wastewater systems shall be 30,000 square feet for parcels between 40,000 square feet and 1.99 acres in size; zoning lots two acres and greater in size shall have a minimum usable lot area of at least 40,000 square feet.~~<sup>8</sup>

- ~~65.~~ Proposed subdivisions are subject to all applicable subdivision standards detailed in Article 7. Note that Article 7 provides for different dimensional requirements than those shown in the Dimensional and Ratio Standards table depending upon the type of subdivision proposed and the percentage of open space provided.
- ~~76.~~ Subdivisions ~~utilizing, following the conventional design process and/or;~~ proposing private roads are subject to larger setbacks and minimum lot sizes than those listed in the Dimensional and Ratio Standards. Refer to Section 7.8.4 for additional requirements. Refer to Section 7.8.5 for private road standards.
- ~~87.~~ The storage of junked or wrecked motor vehicles is prohibited except if the vehicle is stored in an enclosed building that conforms to applicable building code and zoning regulations or if such building is a legal non-conforming use.

<sup>8</sup> Staff is recommending the provision be deleted entirely. The district requires a minimum lot area of 15,000 sq.ft. and 'service' by sewer. Existing language is inconsistent with the intent of the district and established minimum lot area.

<b>R-4 MEDIUM INTENSITY RESIDENTIAL</b>		<b>DIMENSIONAL AND RATIO STANDARDS</b>	
<b>PURPOSE</b>	The purpose of the Medium Intensity Residential (R-4) District is to provide locations for moderate intensity residential development and supporting recreational, community service and educational uses in areas where urban services are available or are to be provided as part of the development process.	Lot Size, min. (square feet)	10,000
<b>APPLICABILITY</b>	This district will usually be applied where the following conditions exist:  1. Designated by the adopted Comprehensive Plan as a Transition Area, which can reasonably be expected to be annexed by a municipality in the ensuing 10-20 years.  2. Water and sewer lines should exist at site or be assured of installation as part of the development process.  3. Vehicular access must consist of direct access to a street classified as either arterial or collector as designated by the adopted Comprehensive Plan.	Lot Width, min. (feet)	75
		Front Setback from ROW, min. (feet)	25 [1]
		Corner Side Setback, min. (feet)	25 [2]
		Side Setback, min. (feet)	10 [1]
<b>DIMENSIONAL STANDARDS NOTES:</b> [1] Accessory structures shall not be erected in any required front open space and shall also conform to all other regulations. [2] Any corner lot having an abutting interior lot on its side street shall observe a front yard setback from both streets provided, however, that this requirement does not reduce the width suitable for a building on said lot to less than 25 feet. (See graphic in Section 6.2.7). [3] Two feet of additional height shall be allowed for one foot increase of the required front and side setbacks. [4] R = residential, NR = non-residential, CU = conditional use. [5] Permitted non-residential uses existing as of 5/6/98 shall be limited to a maximum floor area ratio of .141 in the RB, AR, R-1, R-2, R-3, and R-4 zoning districts.	Rear Setback, min. (feet)	10 [1]	
	Floor Area Ratio, max.	R-CU [4]	.141
		NR	.123[5]
		NR-CU	.141 [5]
	Required Open Space Ratio, min.	R-CU	.78
		NR	.79
	Required Livability Space Ratio, min.	R-CU	.54
	Required Recreation Space Ratio, min.	R	.111
		R-CU	.114
	Gross Land Area, min. (square feet)	R-CU NR-CU	15,000
Required Pedestrian/Landscape Ratio, min.	NR	.198	
	NR-CU	.195	
<b>R-4 DISTRICT SPECIFIC DEVELOPMENT STANDARDS</b>			
<ol style="list-style-type: none"> <li>Uses shall be restricted to those indicated for the R-4 District in Section 5.2, unless a Conditional Use (CU) or MPD-CZ District is approved (see Section 3.8).</li> <li>Development within the zoning district shall be subject to all applicable use standards detailed in Article 5 and all applicable development standards detailed in Article 6 of this Ordinance.</li> <li>While the Minimum Lot Size may be 10,000 square feet, the density permitted on a given parcel is based on the Watershed Protection Overlay District in which the property is located. Refer to Section 4.2.4 for a breakdown of the allowable density (i.e., the number of individual dwellings that can be developed on a parcel of property).</li> <li>Allowable impervious surface area is based on the Watershed Protection Overlay District in which the property is located. Refer to Section 4.2.5 for a breakdown of the allowable impervious surface area.</li> <li style="color: red;">For lots outside of a Watershed Protection Overlay District (see Section 4.2), the minimum usable lot area</li> </ol>			

~~for lots that utilize ground absorption wastewater systems shall be 30,000 square feet for parcels between 40,000 square feet and 1.99 acres in size; zoning lots two acres and greater in size shall have a minimum usable lot area of at least 40,000 square feet.~~<sup>9</sup>

- ~~65.~~ Proposed subdivisions are subject to all applicable subdivision standards detailed in Article 7. Note that Article 7 provides for different dimensional requirements than those shown in the Dimensional and Ratio Standards table depending upon the type of subdivision proposed and the percentage of open space provided.
- ~~76.~~ Subdivisions ~~utilizing, following the conventional design process and/or;~~ proposing private roads are subject to larger setbacks and minimum lot sizes than those listed in the Dimensional and Ratio Standards. Refer to Section 7.8.4 for additional requirements. Refer to Section 7.8.5 for private road standards.
- ~~87.~~ The storage of junked or wrecked motor vehicles is prohibited except if the vehicle is stored in an enclosed building that conforms to applicable building code and zoning regulations or if such building is a legal non-conforming use.

<sup>9</sup> Staff is recommending the provision be deleted entirely. The district requires a minimum lot area of 10,000 sq.ft. and 'service' by sewer. Existing language is inconsistent with the intent of the district and established minimum lot area.

<b>R-5 HIGH INTENSITY RESIDENTIAL</b>		<b>DIMENSIONAL AND RATIO STANDARDS</b>		
<b>PURPOSE</b>		Lot Size, min. (square feet)	7,500	
		Lot Width, min. (feet)	50	
<p>The purpose of the High Intensity Residential (R-5) District is to provide locations for high intensity residential development and supporting recreational community, service, or educational uses in areas where the full range urban services are available.</p> <p>It is further intended that these districts be used to promote economically mixed housing developments and to contribute to the provision of a range of housing types for lower income households.</p>		Front Setback from ROW, min. (feet)	20 [1]	
		Corner Side Setback, min. (feet)	20 [2]	
<b>APPLICABILITY</b>		Side Setback, min. (feet)	10 [1]	
<p>This district will usually be applied where the following conditions exist:</p> <ol style="list-style-type: none"> <li>Designated by the adopted Comprehensive Plan as a Transition Area which can reasonably be annexed by a municipality in the ensuing 10-20 years, or within the Chapel Hill Joint Planning Area located at an Activity Node designated by the adopted Comprehensive Plan.</li> <li>Water and sewer lines should exist at site or be assured of installation as part of the development process.</li> <li>Vehicular access must consist of direct access to a street certified either arterial or collector as designated by the adopted Comprehensive Plan.</li> <li>The full range of urban services exist or are proposed at the time of the development including fire, police, recreation, education, commercial and cultural activities.</li> </ol>		Rear Setback, min. (feet)	10 [1]	
		Height, max. (feet)	25 [3]	
<p><b>DIMENSIONAL STANDARDS NOTES:</b></p> <p>[1] Accessory structures shall not be erected in any required front open space and shall also conform to all other regulations.</p> <p>[2] Any corner lot having an abutting interior lot on its side street shall observe a front yard setback from both streets provided, however, that this requirement does not reduce the width suitable for a building on said lot to less than 25 feet. (See graphic in Section 6.2.7).</p> <p>[3] Two feet of additional height shall be allowed for one foot increase of the required front and side setbacks.</p> <p>[4] R = residential, NR = non-residential, CU = conditional use.</p>		Floor Area Ratio, max.	R [4] NR	.174
			R - CU NR - CU	.200
		Required Open Space Ratio, min.	R NR	.77
			R-CU NR-CU	.76
		Required Livability Space Ratio, min.	R R- CU	.52
			R	.197
		Required Recreation Space Ratio, min.	R-CU	.200
			R-CU NR-CU	10,000
Required Pedestrian/Landscape Ratio, min.	NR	.195		
	NR-CU	.19		
<b>R-5 DISTRICT SPECIFIC DEVELOPMENT STANDARDS</b>				
<ol style="list-style-type: none"> <li>Uses shall be restricted to those indicated for the R-5 District in Section 5.2, unless a Conditional Use (CU) or MPD-CZ District is approved (see Section 3.8).</li> <li>Development within the zoning district shall be subject to all applicable use standards detailed in Article 5 and all applicable development standards detailed in Article 6 of this Ordinance.</li> </ol>				

3. While the Minimum Lot Size may be 7,500 square feet, the density permitted on a given parcel is based on the Watershed Protection Overlay District in which the property is located. Refer to Section 4.2.4 for a breakdown of the allowable density (i.e., the number of individual dwellings that can be developed on a parcel of property).
4. Allowable impervious surface area is based on the Watershed Protection Overlay District in which the property is located. Refer to Section 4.2.5 for a breakdown of the allowable impervious surface area.
5. ~~For lots outside of a Watershed Protection Overlay District (see Section 4.2), the minimum usable lot area for lots that utilize ground absorption wastewater systems shall be 30,000 square feet for parcels between 40,000 square feet and 1.99 acres in size; zoning lots two acres and greater in size shall have a minimum usable lot area of at least 40,000 square feet~~
65. Proposed subdivisions are subject to all applicable subdivision standards detailed in Article 7. Note that Article 7 provides for different dimensional requirements than those shown in the Dimensional and Ratio Standards table depending upon the type of subdivision proposed and the percentage of open space provided.
76. Subdivisions ~~utilizing, following the conventional design process and/or~~ proposing private roads are subject to larger setbacks and minimum lot sizes than those listed in the Dimensional and Ratio Standards. Refer to Section 7.8.4 for additional requirements. Refer to Section 7.8.5 for private road standards.
87. The storage of junked or wrecked motor vehicles is prohibited except if the vehicle is stored in an enclosed building that conforms to applicable building code and zoning regulations or if such building is a legal non-conforming use.

<b>R-8 HIGH INTENSITY RESIDENTIAL</b>		<b>DIMENSIONAL AND RATIO STANDARDS</b>			
<b>PURPOSE</b>	<p>The purpose of the High Intensity Residential (R-8) District is to provide locations for high intensity residential development and supporting recreational community, service, or educational uses in areas where the full range urban services are available.</p> <p>It is further intended that these districts be used to promote economically mixed housing developments and to contribute to the provision of a range of housing types for lower income households.</p>	Lot Size, min. (square feet)	5,000		
		Lot Width, min. (feet)	50		
		Front Setback from ROW, min. (feet)	20 [1]		
		Corner Side Setback, min. (feet)	20 [2]		
<b>APPLICABILITY</b>	<p>This district will usually be applied where the following conditions exist:</p> <ol style="list-style-type: none"> <li>Designated by the adopted Comprehensive Plan as a Transition Area which can reasonably be annexed by a municipality in the ensuing 10-20 years, or within the Chapel Hill Joint Planning Area located at an Activity Node designated by the adopted Comprehensive Plan.</li> <li>Water and sewer lines should exist at site or be assured of installation as part of the development process.</li> <li>Vehicular access must consist of direct access to a street certified either arterial or collector as designated by the adopted Comprehensive Plan.</li> <li>The full range of urban services exist or are proposed at the time of the development including fire, police, recreation, education, commercial and cultural activities.</li> </ol>	Side Setback, min. (feet)	8[1]		
		Rear Setback, min. (feet)	8 [1]		
		Height, max. (feet)	25 [3]		
		Floor Area Ratio, max.	R [4] NR .246 R - CU NR - CU .283		
<p><b>DIMENSIONAL STANDARDS NOTES:</b> [1] Accessory structures shall not be erected in any required front open space and shall also conform to all other regulations. [2] Any corner lot having an abutting interior lot on its side street shall observe a front yard setback from both streets provided, however, that this requirement does not reduce the width suitable for a building on said lot to less than 25 feet. (See graphic in Section 6.2.7). [3] Two feet of additional height shall be allowed for one foot increase of the required front and side setbacks. [4] R = residential, NR = non-residential, CU = conditional use.</p>		Required Open Space Ratio, min.	R NR R-CU NR-CU .75 .74		
		Required Livability Space Ratio, min.	R R-CU .49 .48		
		Required Recreation Space Ratio, min.	R R-CU .296 .299		
		Gross Land Area, min. (square feet)	R-CU NR-CU 7,000		
		Required Pedestrian/Landscape Ratio, min.	NR NR-CU .088 .185		
		<b>R-8 DISTRICT SPECIFIC DEVELOPMENT STANDARDS</b>			
		1.	Uses shall be restricted to those indicated for the R-8 District in Section 5.2, unless a Conditional Use (CU) or MPD-CZ District is approved (see Section 3.8).		
2.	Development within the zoning district shall be subject to all applicable use standards detailed in Article 5 and all applicable development standards detailed in Article 6 of this Ordinance.				

3. While the Minimum Lot Size may be 5,000 square feet, the density permitted on a given parcel is based on the Watershed Protection Overlay District in which the property is located. Refer to Section 4.2.4 for a breakdown of the allowable density (i.e., the number of individual dwellings that can be developed on a parcel of property).
4. Allowable impervious surface area is based on the Watershed Protection Overlay District in which the property is located. Refer to Section 4.2.5 for a breakdown of the allowable impervious surface area.
5. ~~For lots outside of a Watershed Protection Overlay District (see Section 4.2), the minimum usable lot area for lots that utilize ground absorption wastewater systems shall be 30,000 square feet for parcels between 40,000 square feet and 1.99 acres in size; zoning lots two acres and greater in size shall have a minimum usable lot area of at least 40,000 square feet.~~
65. Proposed subdivisions are subject to all applicable subdivision standards detailed in Article 7. Note that Article 7 provides for different dimensional requirements than those shown in the Dimensional and Ratio Standards table depending upon the type of subdivision proposed and the percentage of open space provided.
76. Subdivisions ~~utilizing the conventional design process and/or~~ proposing private roads are subject to larger setbacks and minimum lot sizes than those listed in the Dimensional and Ratio Standards. Refer to Section 7.8.4 for additional requirements. Refer to Section 7.8.5 for private road standards.
87. The storage of junked or wrecked motor vehicles is prohibited except if the vehicle is stored in an enclosed building that conforms to applicable building code and zoning regulations or if such building is a legal non-conforming use.

<b>R-13 HIGH INTENSITY RESIDENTIAL</b>		<b>DIMENSIONAL AND RATIO STANDARDS</b>	
<b>PURPOSE</b>	The purpose of the High Intensity Residential (R-13) District is to provide locations for high intensity residential development and supporting recreational community, service, or educational uses in areas where the full range urban services are available.  It is further intended that these districts be used to promote economically mixed housing developments and to contribute to the provision of a range of housing types for lower income households.	Lot Size, min. (square feet)	3,000
<b>APPLICABILITY</b>	This district will usually be applied where the following conditions exist:  1. Designated by the adopted Comprehensive Plan as a Transition Area which can reasonably be annexed by a municipality in the ensuing 10-20 years, or within the Chapel Hill Joint Planning Area located at an Activity Node designated by the adopted Comprehensive Plan.  2. Water and sewer lines should exist at site or be assured of installation as part of the development process.  3. Vehicular access must consist of direct access to a street certified either arterial or collector as designated by the adopted Comprehensive Plan.  4. The full range of urban services exist or are proposed at the time of the development including fire, police, recreation, education, commercial and cultural activities.	Lot Width, min. (feet)	50
		Front Setback from ROW, min. (feet)	20 [1]
		Corner Side Setback, min. (feet)	20 [2]
		Side Setback, min. (feet)	8[1]
<b>DIMENSIONAL STANDARDS NOTES:</b> [1] Accessory structures shall not be erected in any required front open space and shall also conform to all other regulations. [2] Any corner lot having an abutting interior lot on its side street shall observe a front yard setback from both streets provided, however, that this requirement does not reduce the width suitable for a building on said lot to less than 25 feet. (See graphic in Section 6.2.7). [3] Two feet of additional height shall be allowed for one foot increase of the required front and side setbacks. [4] R = residential, NR = non-residential, CU = conditional use.	Rear Setback, min. (feet)	8 [1]	
	Height, max. (feet)	25 [3]	
	Floor Area Ratio, max.	R [4]	.348
		R - CU NR - CU	.400
	Required Open Space Ratio, min.	R R-CU NR - CU	.72
	Required Livability Space Ratio, min.	R	.45
		R-CU	.44
Required Recreation Space Ratio, min.	R	.494	
	R-CU	.497	
Gross Land Area, min. (square feet)	R-CU NR-CU	5,000	
Required Pedestrian/Landscape Ratio, min.	NR-CU	.18	
<b>R-13 DISTRICT SPECIFIC DEVELOPMENT STANDARDS</b>			
1.	Uses shall be restricted to those indicated for the R-13 District in Section 5.2, unless a Conditional Use (CU) or MPD-CZ District is approved (see Section 3.8).		
2.	Non-residential uses are permitted only as a Conditional Use (CU) District in the R-13 district.		
3.	Development within the zoning district shall be subject to all applicable use standards detailed in Article 5		

- and all applicable development standards detailed in Article 6 of this Ordinance.
4. The density permitted on a given parcel is based on the Watershed Protection Overlay District in which the property is located. Refer to Section 4.2.4 for a breakdown of the allowable density (i.e., the number of individual dwellings that can be developed on a parcel of property).
  5. Allowable impervious surface area is based on the Watershed Protection Overlay District in which the property is located. Refer to Section 4.2.5 for a breakdown of the allowable impervious surface area.
  6. ~~For lots outside of a Watershed Protection Overlay District (see Section 4.2), the minimum usable lot area for lots that utilize ground absorption wastewater systems shall be 30,000 square feet for parcels between 40,000 square feet and 1.99 acres in size; zoning lots two acres and greater in size shall have a minimum usable lot area of at least 40,000 square feet.~~
  76. Proposed subdivisions are subject to all applicable subdivision standards detailed in Article 7. Note that Article 7 provides for different dimensional requirements than those shown in the Dimensional and Ratio Standards table depending upon the type of subdivision proposed and the percentage of open space provided.
  87. Subdivisions ~~utilizing; following the conventional design process and/or;~~ proposing private roads are subject to larger setbacks and minimum lot sizes than those listed in the Dimensional and Ratio Standards. Refer to Section 7.8.4 for additional requirements. Refer to Section 7.8.5 for private road standards.
  98. The storage of junked or wrecked motor vehicles is prohibited except if the vehicle is stored in an enclosed building that conforms to applicable building code and zoning regulations or if such building is a legal non-conforming use.

on which they are to be situated and to avoid the following environmentally sensitive areas:

- (1) Stream buffer zones as required by Section 6.13;
  - (2) Wetlands as defined by the U.S. Army Corps of Engineers;
  - (3) Land with slopes greater than 15%; and
  - (4) Natural areas as identified in the Inventory of Natural Areas and Wildlife Habitats of Orange County, NC.
- (B) To avoid creating lots that will be difficult to build upon in compliance with the standards of this Section, the preliminary plan shall show proposed building envelopes and approximate driveway locations for all lots within subdivisions.
- (1) A zoning compliance permit shall not be issued for the construction of buildings or driveways outside the areas so designated on the preliminary plan unless the Planning Director makes a written finding that the proposed location complies with the provisions of this Section and Sections 6.13 (Stream Buffers) and 6.14 (Stormwater Management).

#### 4.2.8 Modifications of the Impervious Surface Ratio

Modifications of the Impervious Surface Ratios may be requested through one of the following provisions:

- (A) Through variance procedures of the Board of Adjustment, as described in Section 2.10.
- (B) Through approval and recordation of a conservation agreement, as provided in Article 4 of Chapter 121 of the N.C. General Statutes, between Orange County and a land owner that prohibits development of land in a protected watershed in perpetuity, subject to the following:
  - (1) A modification of the required impervious surface ratios may be approved administratively but only to the extent that additional land in the same watershed is conserved or protected from development.
  - (2) The land which will be subject to a conservation agreement must be adjacent to the land proposed for development and for which a modification of the impervious surface ratios is sought.
    - (a) As an example, a person owning a 40,000 square foot lot and subject to a 12% impervious surface ratio would be limited to 4,800 square feet of impervious coverage. If the person's plans called for 5,500 square feet of coverage (a difference of 700 square feet), the recording of a conservation easement on 5,833 square feet of contiguous property would satisfy the impervious surface ratio requirements. (12% of 5,833 square feet is 700 square feet.)
    - (b) The conservation easement shall describe the property restricted in a manner sufficient to pass title, provide that its restrictions are covenants that run with the land and, be approved in form by the County Attorney.
    - (c) The conservation easement shall, upon recording, be in the place of a first priority lien on the property (excepting current ad valorem property taxes) and shall remain so unless, with the approval of Orange County, it is released and terminated.
    - (d) Orange County shall require the priority of the conservation easement to be certified by an attorney-at-law, licensed to practice law in the State of North Carolina and approved to certify title to real property.

- (e) Orange County approval of a release or termination of the conservation agreement shall be declared on the document releasing or terminating the agreement. The document shall be signed by the Orange County Manager, upon approval of the Board of County Commissioners. No such document shall be effective to release or terminate the conservation agreement until it is filed for registration with the Register of Deeds of Orange County.
- (C) Through the installation of a stormwater feature, consistent with the minimum design standards as detailed within the State BMP Manual.
- (1) The proposed feature must be recognized by Orange County and the State as allowing for an increase in impervious surface area through an infiltration stormwater feature.
  - (2) Under no circumstances may impervious surface area be increased by more than 3% of the total allowable area on the subject parcel through this process.
  - (3) The property owner shall provide a stormwater assessment, completed by a licensed engineer, of the current property identifying its infiltration rates and carrying capacity as well as a comprehensive soil assessment for the property.
  - (4) The development/design of the feature shall be in accordance with established design criteria as embodied within the State stormwater manual and shall be completed by a licensed engineer with ~~expertise~~<sup>expertise</sup><sup>10</sup> in stormwater management. Additional allowable impervious surface area shall be based on the soil composition of the property consistent with State regulations.
  - (5) The property owner shall be responsible for the completion and submission of a stormwater operation/maintenance and access agreement detailing the perpetual maintenance, inspection, and upkeep of the approved BMP in accordance with County and State regulations.  
  
The Planning Director shall cause an analysis to be made of the agreement by qualified representatives of the ~~County~~<sup>County</sup><sup>10</sup> and other agencies or ~~officials~~<sup>officials</sup><sup>10</sup> as appropriate. Once approved, the document shall be recorded in the Orange County Registrar of Deeds office.  
  
The property owner assumes all financial and legal responsibility for the perpetual maintenance and upkeep of the approved BMP.
  - (6) The property owner shall assume all costs associated with the preparation and recordation of new plat(s)/development restrictions detailing the allowable impervious surface limit(s) for the property after the BMP has been approved by the County.
  - (7) The property owner, at its cost and expense, shall be required to execute and file with the County a bond, or other form of acceptable security, to cover the cost of removal of a BMP, and any additional impervious surface area installed as the result of its approval, in the event the BMP is failed to be maintained in accordance with the recorded operations agreement. The amount of the bond shall be 110% of the estimated cost of removing the feature and impervious surface area as certified by a licensed professional engineer or surveyor.

<sup>10</sup> Correction of typo.

**4.2.9 Water Supply / Sewage Disposal Facilities**

TABLE 4.2.9: WATER SUPPLY/SEWAGE DISPOSAL FACILITIES	
DISTRICT	WATER SUPPLY/SEWAGE DISPOSAL
UNIV-CA UNIV-PW	Water supply and sewage treatment systems shall be limited to individual wells and on-site septic tanks systems or individual on-site alternative disposal systems. <sup>(1)</sup>
All Watershed Overlay Districts	No new treatment system will be permitted where effluent disposal occurs on a separate lot from the source of wastewater generation; provided, however, off-site systems shall be permitted in all Watershed Overlay Districts <del>except the University Lake Protected Watershed (UNIV-PW) and Critical Area (UNIV-CA)</del> <sup>11</sup> when located in a Flexible Development subdivision approved in accordance with Section 7.123 of this Ordinance. <sup>(1)</sup>
UNIV-CA	New septic tanks and their nitrification fields shall be located outside of any stream buffers, or 300 feet from a reservoir or perennial or intermittent stream as shown on the USGS Quadrangle maps, whichever is further
CANE-CA U-ENO-CA	New septic tanks, pump tanks and their appurtenances shall be located outside of any stream buffers and at least 100 feet from a perennial or intermittent stream as shown on the USGS Quadrangle maps, and at least 150 feet from a reservoir. New nitrification fields shall be located outside of any stream buffers and at least 100 feet from a perennial or intermittent stream as shown on the USGS Quadrangle maps, and at least 300 feet from a reservoir.
CANE-PW CANE-CA U-ENO-CA	Water supply and sewage treatment systems shall be limited to individual wells and septic tanks or individual on-site alternative disposal systems; provided however, off-site systems shall be permitted when located in a Flexible Development subdivision approved in accordance with Section 7.13 of this Ordinance.
UNIV-PW CANE-PW U-ENO-PW HYCO-PW LITTLE-PW BACK-PW HAW-PW JORDAN-PW L-ENO-PW FLAT-PW	New septic tanks and their nitrification fields shall be located outside of any stream buffers and at least 100 feet from a perennial or intermittent stream as shown on the USGS Quadrangle maps.

~~(1) For Ssubdivisions utilizing the Flexible Development Option, septic and repair areas for individual residential lots shall either be located either on-site or within a defined individual septic lot/easement within a Common Open Space area. Combined, joint, or community septic systems are prohibited.~~

**SECTION 4.3: SPECIAL FLOOD HAZARD AREA (SFHA)**

**4.3.1 Intent**

The intent of this overlay district is to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- (A) Restrict or prohibit uses, which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion, flood heights or velocities;
- (B) Require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
- (C) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

<sup>11</sup> Please note staff is reviewing the Joint Planning Land Use Plan to verify if this language can be deleted.

(B) The rear yard requirement shall be 50 feet from the edge of the rear property line or 100 feet from the edge of the right-of-way of an interstate highway when a rear yard is adjacent to the interstate.

(C) The side yard requirement shall be 50 feet from the side property line or 100 feet from the edge of the right-of-way of an interstate highway where the side property line is adjacent to the interstate.

## SECTION 4.8: STONEY CREEK BASIN

### 4.8.1 Intent

(A) The purpose of the Stoney Creek Basin Overlay District is to implement the Stoney Creek Basin Small Area Plan by:

- (1) Encouraging the creation of open space and by limiting density increases within the more rural portions of the area generally defined as the Stoney Creek drainage basin; and
- (2) Modifying certain Flexible Development regulations as contained in Section 7.13 of this Ordinance, to encourage the distribution and intensity of development areas and open space as specified in the Plan.

### 4.8.2 Applicability

(A) **Generally**

This district shall be applied to all of the areas contained in the Stoney Creek Basin Small Area Plan, except for the portion of the Plan area located within the Rural Buffer (RB) Zoning District. The Stoney Creek Basin Small Area Plan and Map was adopted by the Orange County Board of Commissioners on August 5, 1996.

(B) **With Other Regulations**

Except for certain provisions as specified in Section 4.6.4, all other regulations for the underlying zoning districts are applicable.

### 4.8.3 Land Use Intensities

Three levels of land use intensity are contained in the Stoney Creek Basin Small Area Plan. These areas are designated in the Plan as lower, intermediate, and higher intensity areas, which are identified, respectively, as Lower Intensity, Intermediate Intensity, and Higher Intensity Development Areas within the Stoney Creek Basin Overlay Zoning District.

(A) **Lower Intensity Development Area**

The Lower Intensity Development Area includes land designated as lower intensity area in the Stoney Creek Basin Small Area Plan. The Lower Intensity area best typifies the area's remaining rural character and is proposed to have the lowest average development densities in the future. The current character of the area is residential development on relatively large lots, with a considerable number consisting of large undeveloped tracts (both open and forested), and active farm land. The Lower Intensity area lies mostly in the central and southern part of the study area. A portion also extends north to I-85 in the undeveloped area east of Strayhorn Hills. It contains 2502 acres, 725 of which are contained in Duke Forest or the Stoney Creek wildlife corridor.

(B) **Intermediate Intensity Development Area**

The Intermediate Intensity Development Area includes land designated as intermediate intensity area in the Stoney Creek Basin Small Area Plan. The Intermediate Intensity area is intended to provide a transition between higher and lower intensity areas. It is envisioned as being predominantly residential with density being determined in large part by the character of existing development. The Intermediate Intensity area contains 1205 acres, and includes the existing residential developments of Strayhorn Hills and

Wyngate, areas bordering University Station Road along the eastern side of the Plan area, and area west of NC 86 adjacent to the I-40/Old NC 86 Economic Development District.

**(C) Higher Intensity Development Area**

The Higher Intensity Development Area includes land designated as higher intensity area in the Stoney Creek Basin Small Area Plan and is generally synonymous with areas designated in the Land Use Element of the Comprehensive Plan as Ten- or Twenty-Year Transition Area. In the future, land within the Higher Intensity area will likely be annexed into the municipalities of Hillsborough or Durham. A mix of land uses is possible. The Higher Intensity area contains 699 acres, most of which lies in the western and northwestern parts of the Stoney Creek Basin Plan Area, with one smaller portion situated on the eastern tip of the area adjacent to the I-85/US 70 Economic Development District.

**4.8.4 Applicable Regulations Pertaining to Flexible Developments**

Flexible Development regulations contained in Section 7.13-12 shall apply within the Stoney Creek Basin Overlay District, except as indicated in the Table below:

TABLE 4.6.4: VARIATIONS FROM FLEXIBLE DEVELOPMENT PROVISIONS OF SECTION 7.13-12 APPLICABLE IN STONEY CREEK BASIN OVERLAY DISTRICT				
STANDARD		DEVELOPMENT AREA		
		LOWER INTENSITY	INTERMEDIATE INTENSITY	HIGHER INTENSITY
Calculation of Open Space		Active recreation area may not be included in open space calculations	50% of active recreation area may be included in open space calculations, per Section 7.12.47-13.3 of this Ordinance	
Number of Bonus Units <sup>(1)</sup>	33.1-50.0% Open Space	One additional dwelling unit per two acres of open space above 33%		
	50+% Open Space	One additional dwelling unit per two acres of open space between 33% and 50%, plus one additional dwelling unit per acre of open space above 50%		
Location of Bonus Units		Bonus units may not be located in the Lower Intensity Development Areas, but may be located in a flexible development in the Intermediate Intensity or Higher Intensity Development Areas.	Bonus units may be located in a flexible development in the Intermediate Intensity or Higher Intensity Development Areas.	Bonus units may only be located in a flexible development in the Higher Intensity Development Area.
Village Option		Village option not permitted.	Village option permitted, but Village Proper limited to 50 acres.	

<sup>(1)</sup> Bonus units do not apply to Minor Subdivisions utilizing the Flexible Development —Conservation Cluster design—Option.

## ARTICLE 7: SUBDIVISIONS

### SECTION 7.1: GENERAL PROVISIONS

#### 7.1.1 Purpose

- (A) The purpose of this Article is to guide and regulate the subdivision of land within Orange County, for sale or building development, in order to:
- (1) Ensure the public health, safety, and welfare;
  - (2) Provide for the sound use of land;
  - (3) Ensure adequate planning of street systems;
  - (4) Avoid overcrowding of land;
  - (5) Prevent fire, panic, and other dangers;
  - (6) Ensure that water and sewage systems are safe and adequate;
  - (7) Prevent flood damage;
  - (8) Facilitate an orderly use of land;
  - (9) Ensure the proper legal description and monumenting of subdivided land; and
  - (10) Encourage the proper management of Orange County's natural resources.
- (B) It is the expressed purpose of this Article to provide for, in addition to the above, the protection of water resources in Orange County, through the use, alone or in combination, of buffer zones, varying lot sizes, slope restrictions, vegetation, or other equally effective techniques. Innovative techniques on the part of the developer are encouraged where these techniques can be shown to be as effective as the specific requirements of the Article.

#### 7.1.2 Jurisdiction and Applicability

- (A) In accordance with the North Carolina General Statutes, no person may subdivide their land within the planning jurisdiction of Orange County except in accordance with the provisions of this Ordinance.
- (B) No subdivision shall be recognized by the Planning Department until a final plat of the subdivision has been approved and signed by the Planning Director and recorded in the Orange County Register of Deeds Office, including the recordation of any additional documentation required by this Ordinance.
- (C) As provided in North Carolina General Statutes, the Orange County Review Officer shall not certify a plat of any subdivision within the County's subdivision jurisdiction unless the plat has been approved in accordance with the provisions of this Ordinance.

#### 7.1.3 Compliance with Plans and Other Applicable Regulations

All subdivisions shall comply with applicable general provisions, standards, and policies outlined within this Ordinance and the Orange County Comprehensive Plan, as well as with any special planning studies, small area plans, corridor plans, or special planning studies approved or adopted by the Board of County Commissioners.

### SECTION 7.2: CLASSIFICATION OF SUBDIVISIONS

Subdivisions shall be classified as Exempt, Minor, or Major, in accordance with the provisions of this Section. Review procedures for all subdivisions are contained in Article 2.

### 7.2.1 Exempt Subdivisions

- (A) In accordance with North Carolina General Statutes, the following activities do not constitute a subdivision and are expressly exempt from established review and approval processes, provided that the property's exempt status is confirmed in accordance with the procedures detailed in Article 2:
- (1) The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the County, including private road justification standards, as detailed within this Ordinance.
  - (2) The division of land into parcels greater than ten acres if no street right-of-way dedication is involved.
  - (3) The public acquisition by purchase of strips of land for widening or opening streets.
  - (4) The division of a tract in single ownership of the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of the County as detailed within this Ordinance.
- (B) Exempt subdivision shall be required to meet all applicable requirements for the granting of zoning and building permits.

### 7.2.2 Minor Subdivisions

A subdivision shall be classified as "minor" if it does not:

- (A) Create more than:
- ~~(1) Five lots, including the residual acreage, following the Conventional subdivision design model; or~~
  - ~~(4)(2) Twelve lots, including the residual acreage, following the Flexible Development subdivision design model~~ from any one tract of land in any ten year period.<sup>12</sup>
- (B) Dedicate or improve any new public street other than widening an existing public street;
- (C) Extend public water and/or sanitary sewerage systems other than laterals to serve individual lots; and
- (D) Necessitate the installation of drainage improvements which would require easements through one or more lots to serve other lots.

### 7.2.3 Major Subdivisions

- (A) A major subdivision is any subdivision that is not an Exempt or Minor subdivision, as classified in subsections 7.2.1 and 7.2.2. Major subdivisions are further classified as follows:
- (1) **Major Subdivision, Standard**  
All subdivisions not classified as an Exempt Subdivision; Minor Subdivision; Major Subdivision, Class A Special Use; or Major Subdivision, Conditional Use.
  - (2) **Major Subdivision, Class A Special Use, Rural Designated**

<sup>12</sup> As proposed by staff there will be different thresholds for what constitutes a minor subdivision based on the design process followed by the subdivider. In this case we want to promote/encourage the use of the Flexible Development design process and will allow more lots to be created through that process.

A tract of land in a Rural Designated area on the Growth Management System map that is proposed for a subdivision of 21-40 lots.

**(3) Major Subdivision, Class A Special Use, Urban Designated**

A tract of land in an Urban Designated area on the Growth Management System map that is proposed for a subdivision of 21-79 lots.

**(4) Major Subdivision, Conditional Use, Rural Designated**

A tract of land in a Rural Designated area on the Growth Management System map that is proposed for a subdivision of 41 or more lots.

**(5) Major Subdivision, Conditional Use, Urban Designated**

A tract of land in an Urban Designated area on the Growth Management System map that is proposed for a subdivision of 80 or more lots.

- (B)** For the purpose of determining whether a subdivision is a Major Subdivision, Class A Special Use (Rural Designated or Urban Designated), or a Major Subdivision, Conditional Use District (Rural Designated or Urban Designated), the number of lots created shall be determined by counting the cumulative number of lots created, through subdivisions, on a tract or parcel of land as the boundaries of said tract or parcel of land existed in the Land Records of Orange County as of November 5, 2003.

**SECTION 7.3: PHASING OF MAJOR SUBDIVISIONS**

A major subdivision may be developed in phases, provided that:

- (A)** Each phase contains at least five lots, unless depicted on a phasing plan approved by the Board of County Commissioners as part of the preliminary subdivision plat with the express determination that the proposed phasing makes it unlikely that a subdivider would willingly abandon a final phase that contains a required extension of a road or other infrastructure;
- (B)** The degree and extent of road, water supply, sewage disposal, stormwater management, erosion and sedimentation control, and other required improvements in the phase and previously approved phases is sufficient to serve or handle all development within the phase;
- (C)** The number of lots and amount of required open space in the phase and any previously approved phases is proportional; and
- (D)** A phasing plan showing the phases of development and the requirements of this Ordinance that will be satisfied in each phase is approved by the Board of County Commissioners as part of the preliminary plat.

**SECTION 7.4: IMPROVEMENTS AND PERFORMANCE GUARANTEES**

**7.4.1 Generally**

- (A)** Improvements proposed by the subdivider or required by this Ordinance, shall be constructed in accordance with the standards and requirements provided in this Ordinance.
- (B)** In those instances where said improvements are required to be constructed subsequent to the approval of the Final Plat, plans and specifications for said improvements shall be approved by the appropriate agency and reference to said improvements shall be made part of the Final Plat.

**7.4.2 Improvements Required**

- (A)** Subdividers are responsible for the construction, installation, and maintenance of required improvements in accordance with the standards in this Ordinance in addition to

any applicable federal, state, or county standards to include, but not be limited to, the following:

- (1) All roads within the subdivision and improvements to existing roads required for safe and adequate access to the subdivision;
  - (2) Road signs;
  - (3) Water supply and wastewater systems, other than individual wells and septic tanks;
  - (4) Drainage facilities and easements;
  - (5) Stormwater management devices;
  - (6) Erosion and sedimentation control devices;
  - (7) Low-impact (passive) and active recreation amenities;
  - (8) Fire suppression management facilities;
  - (9) Common Open Space, Recreation or Landscape management improvements, areas, and facilities; and<sup>13</sup>
  - (10) Any other on- or off-site improvements required by this Ordinance or required at the time of preliminary plat approval.
- (B) If the subdivider records a plat for only a portion of the subdivision for which a preliminary plat was approved, the improvements required to be constructed, installed, and maintained in accordance with said recorded plat shall be those improvements that the Planning Director deems necessary to serve the lots shown on the recorded plat.

#### 7.4.3 Completion of Improvements

- (A) The Planning Director shall not approve a final plat presented for recordation until:
- (1) All required improvements have been completed.
  - (2) All required Common Open Space is identified for dedication, construction (if applicable), perpetual maintenance, and legal right of access, or
  - (3) A performance guarantee has been provided in accordance with the provisions detailed herein.<sup>14</sup>
- (B) An improvement shall be deemed completed only after the appropriate public agency has certified that the improvement(s) has been installed in accordance with the approved preliminary plat, the approved construction plan, and in accordance with applicable federal, state, and county regulations.
- (C) In lieu of certification from a public agency, the Planning Director is authorized to accept certification from the applicant's licensed professional engineer or licensed professional surveyor or other professional as authorized by the North Carolina General Statutes that the improvements have been installed in accordance with all applicable standards.

<sup>13</sup> Staff is adding language clarifying those areas subject to maintenance responsibility. We are clarifying the type of open space subject to maintenance, for example, as primary/secondary open space is not intended for disturbance or maintenance by anyone. It is supposed to be left alone. The revised language eliminates a contradiction and properly identifies what is required to be maintained.

#### 7.4.4 Performance Guarantees

---

- (A) Performance guarantees shall be required for the purpose of ensuring that subdividers/<sup>14</sup>developers properly install all required subdivision improvements in a timely manner, in accordance with approved plats and construction plans.
- (B) The term of a performance guarantee shall not exceed two years. The Planning Director may, for good cause and with the approval of the provider of the guarantee, grant extensions of the term, with each such extension not to exceed one year.
- (C) Performance guarantees must be in the form of a performance bond, irrevocable letter of credit, or cash escrow account. The form of guarantee shall be determined by the subdivider/developer.
- (D) The performance guarantee shall be conditioned upon the performance of all work necessary to complete the required subdivision improvements within the time period specified at the time of preliminary plat or construction plan approval.
- (E) The amount of the performance guarantee shall equal at least 125% of the estimated cost, including project management costs, of the required improvements that have not been installed by the time of final plat submittal.
- (F) The estimated cost of required improvements, including project management costs, must be itemized by improvement type and certified by the subdivider/developer-s licensed professional engineer. In the case of minor subdivisions, the subdivider's licensed professional engineer or licensed professional surveyor may provide the itemized cost estimate. Cost estimates shall be based on industry norms within Orange County.
- (G) If a subdivider/developer fails to properly install required improvements within the term of the guarantee, the guarantee will be deemed in default. In the case of default, the County is authorized to use the guarantee funds to complete the required subdivision improvements or to let a contract for installation of the required improvements.
- (H) Once the conditions of the performance guarantee have been completed to the satisfaction of the appropriate agencies and any required maintenance guarantee has been provided in accordance with the provisions of this Ordinance, the guarantee shall be released.
- (I) All improvements shall be completed in accordance with the conditions associated with the approved plat(s) and the applicable standards contained in this Article. No financial guarantee may be released until all required certifications of completion have been provided.
- (J) Once all of the required improvements have been at least 50% certified, the financial guarantee may be reduced by the ratio that the completed improvements bear to the total improvements required. However, only one such reduction shall be permitted prior to releasing the entire performance guarantee.

#### 7.4.5 Maintenance of Required Improvements

---

Improvements installed as a requirement of subdivision approval shall be maintained by the subdivider/developer until they are accepted for maintenance by:

- (A) For a public road, the North Carolina Department of Transportation;
- (B) For utilities, the utility provider;
- (C) For landscaping, the individual homeowners or a property owners' association;

---

<sup>14</sup> Staff is attempting to standardize terminology. We use the term 'subdividers' and 'developers' interchangeably but they can actually mean vastly different things. We are eliminating the use of the term 'developer' in Article 7 and relying solely on 'subdivider'.

~~(C)(D)~~ For a private road and other community facilities such as recreation and stormwater management improvements, the individual homeowners or a property owners' association or similar legal entity; and

(E) For Common Open Space areas, a homeowners or property owners' association.

#### 7.4.6 Property Owners' Association

- (A) Where a neighborhood, property owners', or homeowner's association or similar legal entity is to be responsible for the maintenance and control of any improvements required as part of subdivision approval, the subdivider shall file, with the Planning Department and record with the final plat, a declaration of covenants and restrictions, articles of incorporation, where required, and/or by-laws as approved by the County Attorney that will govern the maintenance and control of such improvements. Provisions shall include but not be limited to the following:
- (1) The association shall be established before any homes are sold and/or any building occupied;
  - (2) Membership shall be mandatory for each home buyer and all successive buyers;
  - (3) The association shall be responsible for liability insurance, local taxes and maintenance of recreation, Common Open Space areas, and other facilities, including streets and utility lines;
  - (4) The homeowners must pay their pro-rated share of the costs, and any sums levied by the association that remain unpaid shall become a lien on the individual homeowner's property which shall be subordinate only to tax and mortgage liens;
  - (5) If all or any portion of the property held by the association is being disposed of, or if the association is dissolved, adequate recreation space shall be deeded to Orange County or the appropriate unit of local government to satisfy the public recreation space required by this Ordinance;
  - (6) The lot owner of each dwelling unit or lot shall have voting rights in the association; and
  - (7) The homeowners association shall be able to adjust any assessments to meet changed needs.
- (B) When articles of incorporation are required, they shall be submitted in the form in which they will be filed with the North Carolina Secretary of State and, upon filing, a copy of the articles of incorporation shall be provided to the Planning Department.

#### 7.4.7 Assumption of Maintenance Responsibilities by Property Owner's Association

In those instances where a property owner's association, as detailed within subsection 7.4.6, is to assume maintenance responsibility for improvements within the subdivision, the following process shall be adhered to:

- (A) The subdivider/~~developer~~ shall be required to submit to the Planning Department, in writing, notification that he or she intends to transfer maintenance responsibilities to an established property owner's association.
- (B) The subdivider/~~developer~~ shall coordinate and schedule a joint meeting with Planning Department staff and property owner's association members and officers to review the status of all required improvements and outline the association's perpetual maintenance responsibility. The meeting shall take place at the Planning Department's office during normal business hours.
- (C) The subdivider/~~developer~~ shall prepare a document, to be approved in both form and content by the Planning Department and County Attorney, outlining the current conforming status of all required improvements and providing documentation that the

improvements have recently been inspected and certified as being compliant with federal, state, and local regulations.

- (D) Officers of the property owner's association shall review and sign the said document confirming the association's obligation in the perpetual maintenance of all improvements and facilities for which responsibility is being assumed.
- (E) Said document shall, upon execution, be recorded with the Orange County Register of Deeds, at the expense of the subdivider/~~developer~~, as formal recognition that maintenance responsibilities have been assumed by the property owner's association.
- (F) The Planning Department shall not release the subdivider/~~developer~~ of maintenance responsibilities, or authorize the release of performance guarantees, until this process is completed.

#### 7.4.8 Maintenance Guarantees – Public Roads

- (A) Maintenance guarantees shall be required for the purpose of ensuring that roads that are to be dedicated to the public are properly maintained, free from defects, between the time of construction and the time of formal acceptance for maintenance by the North Carolina Department of Transportation.
- (B) A maintenance guarantee shall be in place before any required performance guarantee is released or before any building permits are issued for subdivisions containing public road improvements.
- (C) Maintenance guarantees for public road facilities shall stipulate that the subdivider/~~developer~~ will maintain all required public road improvements, drainage improvements, and sedimentation and erosion control improvements to the standards of this Ordinance until the public road improvements are added to the state-maintained road system. The guarantee shall also state that the subdivider/~~developer~~ will be responsible for correcting any defects that may arise during the maintenance period and shall remove temporary sedimentation and erosion control measures.
- (D) Maintenance guarantees shall be in the form of a performance bond, irrevocable letter of credit, or cash escrow account and shall conform to the following:
  - (1) The amount of the guarantee shall be at least 15% of the total cost of constructing the public road improvements (excluding the costs of clearing and rough grading).
  - (2) The estimated cost of the required improvements must be itemized and certified by the applicant's licensed professional engineer or licensed professional surveyor, if the surveyor was the original preparer of the plans for the subdivision.
  - (3) In the case of minor subdivisions, the subdivider's licensed professional engineer or licensed professional surveyor may provide the itemized cost estimate.
  - (4) Cost estimates must be based on industry norms within Orange County.
  - (5) The Planning Director or Planning Board may require a higher guarantee amount when deemed necessary to address higher potential correction costs due to the subdivision's size and site characteristics, but in no event may the amount exceed 25% of estimated construction costs.
- (E) The guarantee shall have a term of two years and shall provide an option for annual renewal if the subdivider/~~developer~~ has:
  - (1) Arranged for County inspection of the improvements,
  - (2) Submitted to the County an acceptable estimate of the costs necessary to correct any deterioration or defects discovered by the inspection, and
  - (3) Increased the amount of the security by the amount of said estimate.

- (F) The subdivider/~~developer~~ shall pay a fee in accordance with the Fee Schedule adopted by the Board of County Commissioners at the time of the initial posting of the guarantee and for each subsequent renewal or extension to cover the County's administrative costs.

## SECTION 7.5: SUBDIVISION AGREEMENTS

- (A) The subdivider of all minor and major subdivisions shall record a subdivision agreement outlining the limitations associated with the development of created lots at the Orange County Register of Deeds at the same time the Final Plat is recorded.
- (B) The purpose of the subdivision agreement is to provide detail on various development limitations that will regulate the overall development of property consistent with the approval of the subdivision.
- (C) This subdivision agreement shall, at a minimum, outline the following development criteria for property within the subdivision:
- (1) Required development setbacks for lots within the project.
  - (2) Impervious surface limits for the lots within the development.
  - (3) The presence of identified environmental features (i.e. stream buffers, flood plain, wetlands, etc) and an explanation on how development of the lot(s) is impacted.
  - (4) The presence of identified cultural features listed by the North Carolina Heritage Program, or identified in "An Inventory of Sites of Cultural, Historic, Recreational, Biological, and Geological Significance in the Unincorporated Portions of Orange County" or "Inventory of the Natural Areas and Wildlife Habitats of Orange County, North Carolina".
  - (5) Identification of soil and septic limitations, if any, for each lot.
  - (6) Access restrictions for the project and individual lots.
  - (7) Limitations on land uses.
  - (8) Maintenance requirements for all roadways as-well as references to the project's road maintenance agreement, if required.
  - ~~(8)(9) The required type, installation, preservation, and maintenance of all Common Open Space areas.~~

## SECTION 7.6: GENERAL DESIGN STANDARDS

The avoidance of congestion and overcrowding and the creation of conditions essential to public health, safety and the general welfare may be best accomplished through the application of design standards providing for the distribution of population and traffic, safe and coordinated street systems, approved water supply and sewage disposal systems, usable lots and conformance to plans for Orange County as recommended by the Planning Board and adopted by the Board of Commissioners. The following general requirements and principles of land subdivision shall be observed:

### 7.6.1 Minimum Lot Size

- (A) All lots shall contain the minimum lot area required by Article 3 of this Ordinance and shall comply with all applicable development standards.
- (B) Any lot which provides an easement for individual septic disposal for use by a separate lot shall contain an additional 20,000 square feet to accommodate the septic easement.

### 7.6.2 Residential Density

The allowable density on a given parcel of property proposed for subdivision shall comply with the residential maximum density requirements in Section 4.2.4.

### 7.6.3 Land Suitability

- (A) In reviewing subdivision proposals, the Planning Department and Planning Board shall consider the overall design of the subdivision with the suitability of the land for development to insure that the platting and development of the subdivision will not create a danger to the health, safety, and welfare of Orange County residents.
- (B) Land suitability shall be determined by an investigation of conditions including but not limited to flood prone areas, soil drainage, drainage patterns, slope, historic sites, maximum anticipated levels of land disturbance for the project and all proposed individual lots, and unique natural areas. The investigations shall be carried out by the Planning Board, the Planning Department, or other agencies or individuals having the appropriate technical expertise.
- (C) Special Flood Hazard Areas shall be considered during the review process.
- (D) Soils shall be evaluated for suitability or provisional suitability for septic tanks according to guidelines established in the Laws and Rules for Ground Absorption Sewage Disposal Systems, incorporated herein by reference.
- (1) Each lot that does not contain a suitable building site shall be designated on the plat as being of restricted development potential and by instrument recorded in the Orange County registry as specifically prescribed by Section 7.14.3(E)(1) of this Ordinance.
- (E) **Drainage**
- (1) Soil suitability, including slope and drainage, shall also be evaluated according to soil characteristics indicated by the Orange County Soil Survey and topography indicated by the U.S. Geological Topographic Maps.
- (2) Each lot shall contain a suitable building area safe from inundation and erosion.
- (3) Sanitary sewer systems, septic tank drainfields, water systems, wells, and adjacent properties shall be protected from inundation by surface water.
- (4) Roads, driveways and utilities shall be protected from damage caused by improper stormwater management.
- (5) Mechanical devices, drainage easements, natural buffers, large lots, and/or other technical means may be used to achieve these drainage objectives. Natural drainageways are a preferred means of stormwater run-off removal. The characteristics (including capacity) of natural drainageways shall be protected.
- (6) Runoff levels from the 25-year storm after the site is developed shall not be greater than the rate of runoff on the same site in its natural state.
- (7) In cases where anticipated land disturbance for the subdivision and the proposed lots will cumulatively exceed established thresholds denoted within Section 6.14.5 of this Ordinance, a formal ~~stormwater~~ stormwater<sup>15</sup> management plan shall be required as part of the application submittal.
- (F) **Resource Protection**
- (1) Applications for subdivision shall be evaluated by the Planning Department and Planning Board for potential impairment of habitat of rare and endangered species or unique natural areas.
- (2) A strategy shall be developed to protect resources listed by the North Carolina Heritage Program, or identified in "An Inventory of Sites of Cultural, Historic, Recreational, Biological, and Geological Significance in the Unincorporated Portions of Orange County" or "Inventory of the Natural Areas and Wildlife Habitats of Orange County, North Carolina".

<sup>15</sup> Correction of grammatical error.

- (a) The strategy shall provide protection of identified natural and cultural resources from impacts which could result from development of the subdivision, and shall include one or more of the following:
  - (i) Dedication of conservation easements,
  - (ii) Restrictive covenants prohibiting clearing or disturbance of the resource areas,
  - (iii) Dedication of resource areas to Orange County,
  - (iv) Clustering of lots to minimize land disturbance and preserve the Common Open Space areas and other special features of the property,
  - (v) Other restrictions or development options which provide an adequate level of protection.
- (3) The Planning Department shall review available documentation of the particular site and determine if the proposed strategy adequately protects the identified resources.
- (4) Maps, studies, and reports which are relevant to this section shall be maintained by the Planning Department.

## SECTION 7.7: LOTS

### 7.7.1 Generally

All lots shall conform to all of the requirements of this Ordinance for the zoning district and any overlay district in which they are located.

### 7.7.2 Shape and Orientation

- (A) The shape and orientation of lots shall be appropriate to the location of the subdivision and the development intended.
- (B) Interior lot lines extending from a street should be approximately perpendicular or radial to the street right of way line.
- (C) Lot lines shall be located to permit efficient installation and maintenance of utility lines on utility easements, to maximize buildable area, and, where applicable, to provide a suitable area for septic systems.
- (D) Commercial and industrial lots shall be of sufficient size to include off street service facilities, and off street parking of all vehicles used by all patrons and employees.

### 7.7.3 Relationship to Street

- (A) Each lot shall abut a publicly dedicated street except in subdivision approved with private roads. In the latter situation, each lot must abut a private road or a state maintained road which is shown on the approved plat and constructed pursuant to the standards set by Orange County.
- (B) Upon recommendation of the Planning Board and approval of the County Commissioners, the construction of the access road may be postponed until building or market development is undertaken.
  - (1) In this case the lots shall be designated on the plat: "This lot may not be sold, nor a building permit issued, until the access road has been built as specified for this subdivision."
- (C) Except where reverse frontage is desirable, double frontage lots should be avoided.

7.7.4 Flag Lots

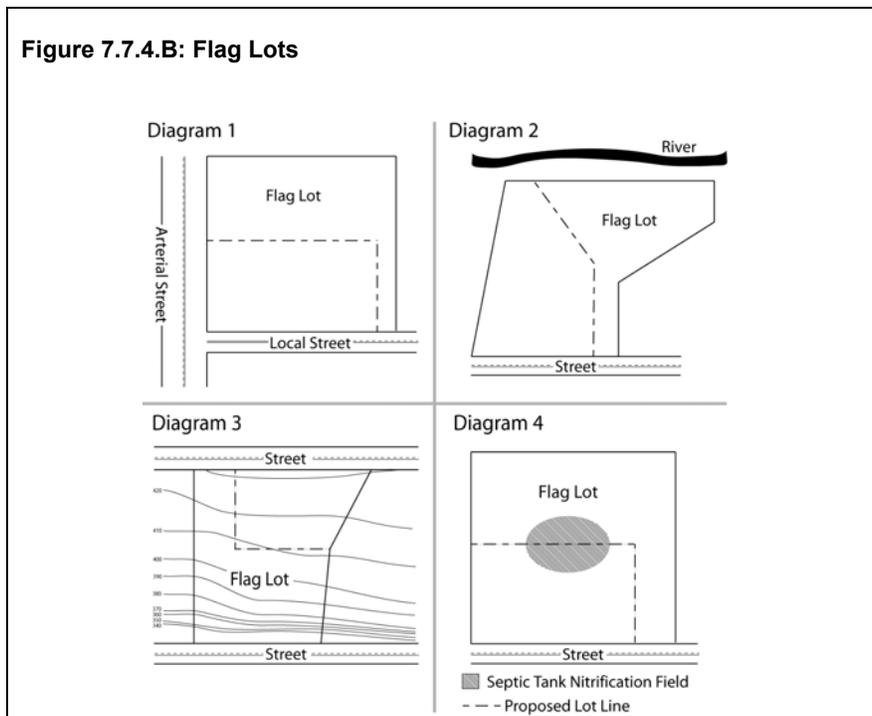
(A) Intent

Orange County discourages and restricts forming flag lots. A flag lot shall be permitted if necessary to allow a property owner reasonable use and benefit from his/her land or to alleviate situations which would otherwise cause extreme hardship for him/her.

(B) Lot Standards

Flag lots are allowed only:

- (1) Where necessary to eliminate access onto arterials (See Fig. 7.7.4.B, Diagram 1);
- (2) To reasonably utilize irregularly shaped land (See Fig. 7.7.4.B, Diagram 2);
- (3) To reasonably utilize land with difficult topography (See Fig. 7.7.4.B, Diagram 3); and
- (4) To reasonably utilize land with limited sites suitable for septic tank nitrification fields (See Fig. 7.7.4.B, Diagram 4);



- (5) Where it is unlikely that a road created in lieu of a flag lot would ever be extended, or otherwise needed to provide access to adjoining parcels; or

(6) To provide for the protection of significant natural or cultural resources.

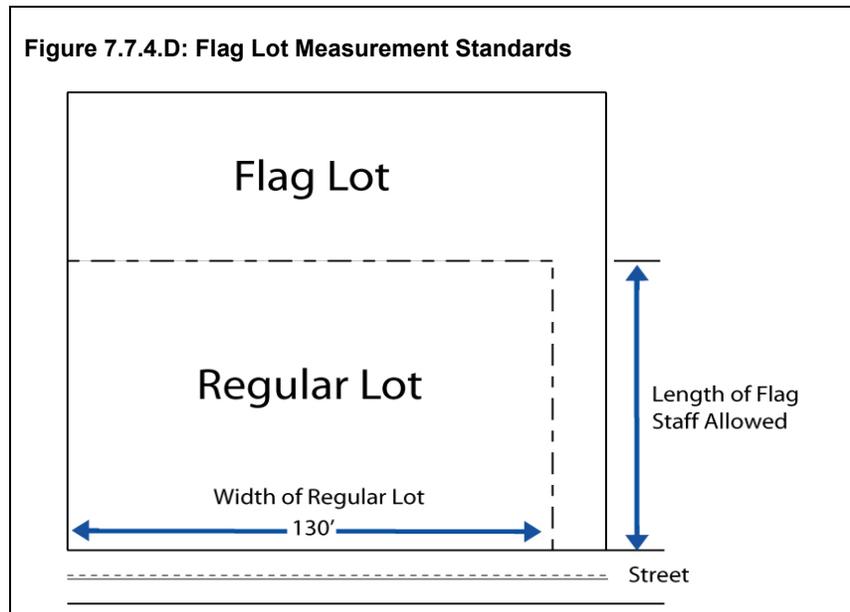
(7) To provide access and/or street frontage for Common Open Space areas.

- (C) No flag lot shall be permitted if it increases the number of access points onto an arterial or collector street.

- (D) The length of a flag lot between the street onto which it has access and the point where a lot dimension parallels the street shall be based on the size of the proposed regular lot. The following table indicates the allowed length of the flag portion of the lot based on the required minimum width of the regular lot (see example graphic).

**TABLE 7.7.4.D: LOT SIZE REQUIREMENTS**

SIZE OF REGULAR LOT	REQUIRED MINIMUM WIDTH OF REGULAR LOT	LENGTH OF FLAG STAFF ALLOWED
40,000 sq. ft. to 1 acre	130 feet	308 to 336 feet
1+ acres to 2 acres	130 feet	337 to 671 feet
2+ acres	130 feet	672 to 700 feet [1]
[1] Maximum length allowed		



- (E) The maximum length allowed on any flag lot is 700 feet.
- (1) The lot width and street frontage of a flag lot may be reduced to 35 feet.
  - (2) The Planning Director may approve further reductions to a minimum of 20 feet where topographical conditions permit the construction of an adequate driveway within that width.
  - (3) The Planning Director may also require greater widths where necessary to insure adequate access.
- (F) All flag lots created after October 3, 1988 shall be composed of contiguous land area, and that area shall not be divided by street right of way or other lots. A private road easement may divide a new lot only if all of the following criteria are met:
- (1) The land underlying the easement in the same ownership as the remainder of the lot; and
  - (2) The proposed easement contains an existing road or driveway which is to be used for access to new lots; OR the proposed easement if located along a property line will have an irregular shape; and
  - (3) The minimum lot area requirement can be met on one side of the road easement but not both sides.
- (G) Those lots with land area divided by a public road right-of-way prior to October 3, 1988 shall not be further subdivided in a manner which creates any additional lots with divided area.

~~(G)(H)~~ For the purpose of these standards, properties created as Common Open Space areas shall not be considered flag lots.<sup>16</sup>

## SECTION 7.8: ACCESS AND ROADWAYS

### 7.8.1 Streets and Common Open Space – General Standards

#### (A) Consistency with Comprehensive Plan

- (1) The provision of street rights-of-way shall conform to and meet the requirements of the Orange County Comprehensive Plan.
- (2) Reservation for or dedication of street rights-of-way for future transportation facilities proposed in the adopted Comprehensive Plan shall be required where appropriate.
- (3) A subdivider shall not be required to provide or dedicate right-of-way for a proposed street to which access would be prohibited by any governmental agency.

#### (B) Compliance with Approved Access Management Plans and Studies

- (1) Subdivision of land abutting a roadway for which the Board of County Commissioners has approved recommendations from a plan or corridor study is subject to provisions of the approved corridor plan or study.
  - (a) In such cases, the subdivider/landowner shall provide any improvements or other means to ensure construction recommended in such plan or corridor study. Such improvements may include facilities for bicycles, sidewalks, and public transportation.
  - (b) The subdivider, in cases where the recommendations address access management, shall use design elements recommended in the plan or corridor study to reduce conflict points.
- (2) Policies prescribed in Phase V of the Access Management Awareness Project and Report, or other adopted studies of strategies, shall be considered during subdivision and site plan review to assess access management and other corridor design considerations.

#### (C) Coordinated Street System

- (1) All subdivisions shall have a coordinated street system with public or private streets that access a public municipal street or a public State maintained street in accordance with the following:
  - (a) Public street rights-of-way shall abut adjacent properties as necessary to provide connectivity to the countywide transportation network; and
  - (b) Lot access to streets serving the subdivision shall be limited in the case of streets that provide a link between two or more roads designated in the Comprehensive Plan as arterials or collectors.
  - ~~(c)~~ All subdivisions shall have at least one street that intersects with or joins a public municipal street, or a public State maintained street.<sup>17</sup>

#### (D) Coordinated Common Open Space System(s)

<sup>16</sup> Technically an open space lot is not intended for development and does not face the same road and utility access issues as a parcel intended for development purposes. There is no need for the same standard to be observed.

<sup>17</sup> Staff is still reviewing the need to add language mandating appropriate street connections/stub-outs within developments. Currently it is the policy to require same. This issue will be addressed in a future amendment package.

(a) All subdivisions with Common Open Space shall have a coordinated relationship between streets, Primary/Secondary and Active/Passive areas within the subdivision, and, where logical and appropriate, connect and/or complement adjacent Open Space and Conservation areas.

(b) All subdivisions with Common Open Space shall have a coordinated relationship with existing and planned public trails, sidewalks, and greenways.

### 7.8.2 Public Streets – Where Required

Public streets are generally required in all subdivisions and shall be required where it is found that:

- (A) The subdivision streets would be accepted by the State for maintenance if:
- (1) They are built in a manner which satisfies the minimum State design and construction criteria for subdivision streets; and
  - (2) They would satisfy other requirements for addition to the State maintenance system, including, but not limited to, the general density standard of at least two occupied residences for each one-tenth of a mile of subdivision street.

If, upon review of a subdivision plat, it is determined that the general density standard is met, but a design standard is not, a re-design will be required where possible. For example, if the number of lots proposed along a subdivision street would clearly satisfy the density standard, but the street design was such that the centerline radius did not meet the minimum standard of 230 feet for level land, a new street design would be required. Another example is a situation where a landscaped island or entrance median prevents acceptance of the street for maintenance.

The State's criteria and standards are identified in the following publications: Subdivision Roads - Minimum Construction Standards and Traditional Neighborhood Development (TND) Guidelines, prepared by and available from the N.C. Department of Transportation; or

- (B) The subdivision streets extend existing streets which are public; or
- (C) The subdivision streets are part of a development which is located in an area designated as Urban or Transition by the Orange County Comprehensive Plan; or
- (D) A proposed street is designated as an arterial or collector on an approved Thoroughfare Plan for a municipality or in the Orange County Comprehensive Plan; or
- (E) The subdivision streets are part of a non-residential development consisting of office, retail, industrial, and similar businesses, each located on a separate lot. This provision shall only apply to that portion of a subdivision being developed for non-residential purposes.

### 7.8.3 Public Streets - Construction Standards

Public dedicated streets must meet the minimum construction standards as adopted by the N.C. Department of Transportation for acceptance of streets as additions to the State Highway System.

### 7.8.4 Private Roads – When Permitted

- (A) A private road utilizing the conventional design model shall be deemed justified for a minor residential subdivision resulting in no more than three lots provided:
- (1) No new lots have been created from the parent tract, through subdivision or other manner exempted from subdivision regulations, since the more recent:
    - (a) Date of adoption of this provision (September 18, 2001); or

- (b) Ten years from the date of recordation of the parent tract if the lot being subdivided was created using the three-lot private road justification provision.

The parent tract, for the purpose of this provision, is the lot or tract of land that is being subdivided.

- (2) All resulting lots meet the minimum lot area per dwelling unit and maximum density requirements for the zoning district, including any overlay district, in which the subdivision is located.

~~(B)~~ A minor residential subdivision of three or fewer lots shall be encouraged to provide a private access easement for one adjacent lot to access the private road in order to reduce the number of access points on a public road.

~~(C)~~ Minor Subdivisions utilizing the Flexible Development – Conservation Cluster subdivision option shall comply with Common Open Space requirements as detailed in Section 7.12 in lieu of the private road justification requirements and standards listed in Section F below.<sup>18</sup>

~~(D)~~ For all other subdivisions the Planning Board and the Board of County Commissioners (in the case of major subdivisions) and Planning staff (in the case of minor subdivisions) shall consider the design features in this subsection (~~87~~.8.4)<sup>19</sup> when determining whether to permit private roads.

~~(E)~~ There is no right to a private road in any subdivision containing more than three lots.

~~(B)(F)~~ At a minimum, a private road may be justified if the subdivision meets standards of (1) below and at least two other design features (2 through 7) listed below.

- (1) The location and design of the subdivision is such that it clearly preserves the rural character of the County through:

(a) The provision of lot sizes and building setbacks significantly greater than those required by the zoning district in which the proposed subdivision is located, including any overlay district requirements, in accordance with the following standards:

(i) Lot Sizes – Conventional Subdivision

- a. All lots in the subdivision must be at least 80,000 square feet if the minimum lot size or area per dwelling unit of the zoning district is 40,000 square feet or less.
- b. All lots must be at least 120,000 square feet (2.75 acres) if the minimum lot size or area per dwelling unit of the zoning district is 80,000 square feet.
- c. All lots must be at least 130,680 square feet (three acres) if the minimum lot size or area per dwelling unit of the zoning district is 87,120 square feet (two acres).
- d. All lots must be at least five acres for all other cases.
- e. Minimum building setbacks for lots located on a private road shall be twice those required.

(ii) Lot Sizes – ~~Cluster Subdivision or~~ Flexible Development –

<sup>18</sup> The goal is to allow for a further reduction of minimum lot area with the preservation of open space incorporating adaptive wastewater treatment techniques. Current design standards do not support stated BOCC/staff goals of allowing for the further clustering of lots with dedication of additional open space.

<sup>19</sup> Staff is correcting an erroneous section reference. Section 8.8.4 deals with 'non-conformities' and not subdivision road design standards.

Estate Lot Option ~~without Density Bonus~~<sup>20</sup>

- a. In zoning districts having a minimum lot size of 40,000 square feet:
  - i. All lots must be at least 80,000 square feet in subdivisions providing 40% or less open space;
  - ii. All lots must be at least 70,000 square feet in subdivisions providing 41% - 49% open space;
  - iii. All lots must be at least 60,000 square feet in subdivisions providing 50% or greater open space.
- b. In zoning districts having a minimum lot size or area per dwelling unit of 80,000 square feet or two acres (87,120 square feet):
  - i. All lots must be at least 130,680 square feet (3 acres) in subdivisions providing 40% or less open space;
  - ii. All lots must be at least 90,000 square feet (2.07 acres) in subdivisions providing 41% - 49% open space;
  - iii. ~~All~~ All lots must be at least 60,000 square feet (1.38 acres) in subdivisions providing 50% or greater open space.
- c. Minimum building setbacks for lots located on a private road shall be twice those required.

(b) The retention and/or provision of landscaping and use of clustering of dwelling units to:

- (i) Screen the view of the subdivision from public roads,
- (ii) Maintain a wooded or forested character,
- (iii) Maintain scenic views, or
- (iv) Preserve wildlife, botanical, historic, archaeological and/or recreation sites; and/or

(c) The preservation of site features which directly enhance the special or unique cultural, historical, archaeological or biological characteristics of the immediate area as referenced in:

- (i) "An Inventory of Sites of Cultural, Historic, Recreational, Biological, and Geological Significance in the Unincorporated Portions of Orange County" or,
- (ii) For historic sites, if the site is deemed eligible by the State Historic Preservation Office for inclusion in the National Register of Historic Places.

**(2)** The number, location and/or size of lots to be located in the subdivision are such that, even if constructed to State standards, the streets would not be accepted by the State for maintenance due to density or other State requirements.

<sup>20</sup> The Flexible Development – Estate Lot Option allows a subdivider to place required 'open space' within each proposed lot. We are revising existing language to allow/encourage some of this open space to become common area.

- (3) At least 50% of the site is to be dedicated and preserved through restrictive covenants and contains recreation and/or open space areas of significant botanical, wildlife, historic and/or archaeological sites as referenced in "An Inventory of Sites of Cultural, Historic, Recreational, Biological, and Geological Significance in the Unincorporated Portions of Orange County."
- (4) In subdivisions proposed to be located in a Watershed Protection Overlay District, as designated in Section 4.2 of this Ordinance, stream buffers are increased by at least 25% above those required by Section 6.13 of this Ordinance and the impervious surface allowed is decreased by at least 15% to allow greater infiltration of storm water runoff to prevent the pollution of water supply reservoirs.
- (5) The site contains topographic and environmental features, such as streams, steep slopes, or watersheds that would be adversely affected by the use of roads constructed to State standards because of factors such as significant amounts of earthwork (cut and fill) that would contribute to increased run off of stormwater and siltation.
- (6) The site is already developed to 100% of the capacity which could be achieved after approval of the subdivision and some or all of the non-conforming aspects of existing development on the site will be made more conforming as a result of the proposed subdivision, and all conforming aspects of the development will remain conforming.
- (7) There is only one subdivision road proposed and:
  - (a) Its length does not exceed 350 feet,
  - (b) It serves no more than five lots,
  - (c) Its grade does not exceed 9%, and
  - (d) The land being subdivided is not connected to, or part of, another subdivision required to be served by public roads.

~~(C)(G)~~ The Declaration of Development Restrictions, prepared by the Planning Department and recorded concurrently with the Final Plat, shall include a statement that further subdivision of any of the lots may require that the road be upgraded to a higher private road classification, or to public standards, and that the cost of the upgrade will be the responsibility of the subdivider.

~~(D)(H)~~ Where a parcel being subdivided was created by a previous subdivision approved after July 5, 1983, then the previous subdivision as well as the proposed subdivision will be considered in determining whether a private road is still justified.

~~(E)(I)~~ It shall be the responsibility of the ~~applicant-subdivider for subdivision approval~~ to supply a written statement justifying the reasons for private roads in the proposed subdivision.

Compliance with one or more of the standards in this subsection (8.8.4) does not insure approval of either a public or private road within a proposed subdivision.

~~(F)(J)~~ A private road shall be required to meet standards set by Orange County as described in Section 7.8.5. Satisfactory proof that the standards are met will be required by the County Manager or his/her appointed agents.

~~(G)(K)~~ If a subdivision is to contain private roads, the subdivider shall have the County's Standard Road Maintenance Agreement entitled, "DECLARATION OF RESTRICTIONS AND PROVISIONS FOR PRIVATE ROAD MAINTENANCE" prepared and processed in accordance with Section 2.14 for minor subdivisions or Section 2.15 for major subdivisions and shall conform to the requirements of Section 7.14.3(6)(b)(ii).

~~(H)(L)~~ The land within a private road easement shall be included within the lot boundaries of the lot or lots which border the easement. The road maintenance agreement shall include a provision that if the road is dedicated for public use at a later date, then the lot

boundaries will be revised to extend only to the edge of the right-of-way, in accordance with NCDOT standards.

### 7.8.5 Private Road Standards

#### (A) Purpose and Intent

- (1) In Orange County, the preference is to serve subdivisions with State-maintained (NCDOT) public streets or municipal streets. The County recognizes, however, that private roads may be beneficial in some cases where the ~~Subdivider~~ subdivider provides significantly larger lots, and where a private road graded to a narrower cross-section saves valuable vistas, trees, or natural resources, and reduces cut-and-fill and overall land disturbance. Where the ~~Subdivider~~ subdivider clearly provides benefits such as enhancing entrances or streetscapes off an adjoining public road, saving trees, providing large lots, reducing disturbance, and "fitting" lots better into their natural surroundings, the Planning Department, Planning Board, and Board of County Commissioners may permit the use of private roads.
- (2) The County is concerned about the logical and safe extension of public roads throughout the County and notes that private roads cannot be served by school buses and sometimes not by rescue squads and fire trucks. Private roads are generally unpaved and property owners who use the road are solely responsible for maintenance of the road.
- (3) The County will approve only private roads where the "benefits" outweigh the negative aspects.
- (4) Private roads shall never be approved simply to save money.
- (5) Private roads are a privilege, and not a right, and must be justified by the particular lot arrangement and benefits provided by each development.

#### (B) General Requirements

- (1) Private Roads serve lots within subdivisions that do not have access to state-maintained roads.
- (2) Private Roads insure that all lots have documented legal right-of-way and provide adequate access for residents and emergency vehicles.
- (3) Private Roads may be allowed in a subdivision where, in the judgment of the Planning Board and with the approval of the Board of County Commissioners, it is found that the nature and location of the subdivision are such that a private road is justified.
  - (a) In determining whether to permit Private Roads in subdivisions, the design features contained in subsection (F)(5) of this Section shall be considered.
  - (b) It is the responsibility of the subdivider to supply a written statement justifying the reasons for Private Roads in the proposed subdivision.
- (4) After approval of    and initial construction of the Private Road, maintenance must be provided by the property owners of lots located along the road. A Road Maintenance Agreement or Declaration between the lot owners is required to insure that the needed repairs are made (see subsection (F)(10)(i)).
- (5) Since Private Roads are not constructed to North Carolina Department of Transportation standards, they will not be added to the Secondary Road System and will not be maintained by the State or Orange County.

#### (C) Classifications

- (1) The standards and specifications for Private Roads apply to subdivisions in Orange County and the class of road required depends on the number of lots served by the road.
  - (a) A Class B road serves 1 to 5 lots or dwelling units.
  - (b) A Class A road serves 6 to 12 lots or dwelling units.
- (2) All Private Roads in a major subdivision require the approval of the Board of County Commissioners.
- (3) Before the final plat of the subdivision can be recorded, the Private Road must be built and approved, or the applicant-subdivider must post a security instrument with the County in an amount that would cover the cost of constructing the road.
- (4) Class B Private Roads intended to serve two lots or dwelling units are not required to be constructed to Orange County Standards or to be inspected before recordation of the final plat.
  - (a) Orange County recommends that such Class B roads be built to these standards in order to provide adequate access, especially for emergency vehicles which require the clearances and turn areas shown on the specifications.

**(D) Construction Standards for Private Roads**

The standards described herein are the minimum set forth by the County. Orange County has not determined, and is not responsible for determining, that these standards are adequate or appropriate for all uses by landowners. The standards also may not meet NCDOT criteria. No road will be accepted for maintenance by NCDOT unless or until NCDOT standards are met.

TABLE 7.8.5.D BASIC STANDARDS AND SPECIFICATIONS FOR PRIVATE ROADS				
	CLASS A		CLASS B	
Max. Number of Lots	12	2	3	5
Right-of-Way Width	50 ft.	50 ft.	50 ft.	50 ft.
Travel-Way Width	18 ft.	No Standard	12 ft.	12 ft.
Road Maintenance Agreement Required	Yes	Yes	Yes	Yes
Maintenance Responsibility	Property Owners	Property Owners	Property Owners	Property Owners

**(1) Certificate of Construction**

- (a) A registered land surveyor must certify in writing to the Planning Department that the travelway of the Private Road, either existing, upgraded or newly constructed, is within the platted right-of-way.
- (b) A professional engineer must certify in writing to the Planning Department that a Private Road, either existing, upgraded, or newly constructed, meets the standards of the required class for the subdivision, provided however, there is no requirement for written certification by a professional engineer for a private road serving three or fewer lots.
- (c) The following must be inspected and certified:

- (B) If the Board of Education has not purchased the site or begun proceedings to condemn the site within 18 months of site reservation, the subdivider may treat the land as freed of the reservation.

## SECTION 7.11: RECREATIONAL FACILITIES

### 7.11.1 Applicability

- (A) Every person, firm or corporation who subdivides land for residential and/or non-residential purposes shall be required to dedicate a portion of such land for the purpose of public recreation/open space, including the preservation of natural and cultural resources, to serve the leisure needs of the residents of the subdivision and the residents of the immediate neighborhood within which the subdivision is located.

(See Article 10 for definition of "immediate neighborhood". The Planning Department keeps a map showing the location of recreation service area boundaries)

- (B) In all cases, the Recreation and Parks Advisory Council shall review and make recommendations to the Planning Board and Board of County Commissioners on the provision or dedication of recreation and/or open space areas.

~~(B)~~(C) This public Recreational Facilities requirement is in addition to any requirements for privately held passive or active Common Open Space areas.

### 7.11.2 Area Requirements

- (A) At least 1/57 of an acre shall be dedicated for each dwelling unit planned or provided for in the subdivision plan, except where land is located in the Special Flood Hazard Overlay District and/or is characterized by steep slopes (15% or greater), then at least 1/20 of an acre of such land shall be dedicated for each dwelling unit.

- (B) If the application of the provisions of Article 3 (Required Minimum Recreation Space Ratio, as shown on the table of each zoning district) and Section 6.3 (Land Use Intensity System) of this Ordinance results in a greater amount of land, then the difference between the application of the standards above and those of the referenced Articles shall be established as private recreation for the use of the residents of the development.

- (C) The total land area dedicated as part of a nonresidential subdivision shall be determined by an analysis of the site, the use(s) to be located thereon and the designation of recreation and/or open space sites as shown on the adopted Comprehensive Plan.

- (1) The site analysis shall be prepared by the subdivider/applicant and shall identify in written and graphic form those areas characterized by:

- (a) Steep slopes (15% or greater),
- (b) Special flood hazard areas and wetlands,
- (c) Rock outcroppings,
- (d) Mature woodlands (trees of 18 inches or greater in diameter),
- (e) Existing structures and cemeteries, and
- (f) Lakes, ponds, rivers and other water resources.

- (2) A written and graphic description shall also be submitted by the subdivider/applicant which identifies:

- (a) The proposed use of each lot in the subdivision,
- (b) The approximate amount of building and parking coverage for each lot, and
- (c) The approximate number of employees associated with each use.

- (3) In no case shall the total land area be less than that required by application of the provisions of Article 3 (Required Minimum Pedestrian/Landscape Ratio, as shown on the Table of each zoning district) and Section 6.3 (Land Use Intensity System) of this Ordinance.

### 7.11.3 Site Suitability

- (A) Land provided or dedicated for active recreational purposes shall be of a character, slope, and location suitable for use as for play areas, tennis courts, multi-purpose courts, picnic areas, ball fields, and other similar recreation uses.
- (B) Active recreation areas shall be located on land that is relatively flat (0 to 7-1/2% slopes), free of wetlands and/or flood plains, free of easements for public utility transmission lines, and is otherwise capable of accommodating active recreation uses.
- (C) Land provided or dedicated for low impact recreation and open space purposes shall be of a character, slope, and location suitable for use for walking, jogging, reading and similar quiet activities, and the preservation of natural features and cultural resources such as steep slopes, rock outcrops, native plant life and wildlife cover, mature woodlands, and water resources.
- (D) In all cases, active and low impact recreation sites as well as open space areas designated in the adopted Comprehensive Plan shall be incorporated into the design of the subdivision.
- (E) Criteria for evaluating the suitability of proposed recreation areas shall include but not be limited to the following:

(1) **Location**

- (a) Land dedicated for recreation purposes shall be located so as to serve the needs of the residents of the subdivision and the residents of the immediate neighborhood within which the subdivision is located.
- (b) When feasible, land dedicated for public recreation purposes shall also maintain logical proximity to private Common Open Space areas.
- (c) Recreation areas shall be located so as to provide, insofar as possible, reasonable accessibility to all residents of the subdivision and residents living in the immediate neighborhood.
- (d) Recreation areas shall be located where more land more suited for recreational purposes due to shape, level slopes and/or dry soil conditions is present.
- (e) Where proposed park sites are shown in the adopted Comprehensive Plan, and a subdivision contains a portion of the park site, then the developer may be required to locate the recreation area in accordance with the park site as shown thereon.

(2) **Unity**

- (a) Land dedicated for recreation purposes shall be a single parcel except where it is determined that two or more parcels are suited to the needs of a particular subdivision.
- (b) The Planning Department and/or Planning Board may recommend, and the Board of County Commissioners may require, the dedication of a connecting path in addition to the land required in Section 7.11.2 above.
- (i) Where a connecting path is necessary, a path right-of-way of up to 50 feet in width may be required, but in no case shall the path right-of-way be less than 30 feet in width.

(3) **Accessibility**

- (a) Land dedicated for recreational purposes shall have at least 50 feet of frontage on at least one street within the subdivision.
- (b) Where a recreation area is not accessible due to lot arrangement, the Planning Department and/or Planning Board may recommend, and the Board of County Commissioners may require, the dedication of connecting paths which link the recreation area with other streets within the subdivision (see figure below).
  - (i) Connecting paths so required shall be in addition to the land required in Section 7.11.2 above.
  - (ii) Connecting paths may require a right-of-way of up to 50 feet in width but in no case shall the path right-of-way be less than 30 feet in width.

Figure 7.11.3.E.3: Connecting Paths



#### 7.11.4 Site Improvements

- (A) Private recreation facilities, either required or provided at the option of the subdivider/applicant, shall meet the standards for site improvements contained in the Table below.
- (B) When choosing improvements for a recreational area, the anticipated characteristics and needs of the residents shall be considered in conjunction with the size of the development, any physical constraints posed by the site, and the availability of other improvements within the same general area as the subdivision.
  - (1) As an example, the existence of a multi-purpose court in an adjacent, existing subdivision and the availability of the facility for use by residents of the proposed subdivision may indicate to the subdivider/applicant that another facility, such as a tennis court, would be more appropriate.
- (C) Recreation facilities which are suitable for various age groups include, but are not limited to those shown in the Table below.
- (D) Trash receptacles shall be provided for all recreational areas regardless of the number and type of other improvements located thereon.

## ~~Section 7.12: CLUSTER DEVELOPMENTS~~

### ~~7.12.1 Generally<sup>21</sup>~~

~~(A) Cluster development:~~

- ~~(1) Allows for greater design flexibility and originality;~~
- ~~(2) Permits the reasonable use of land with difficult physical conditions (topography, floodplain, unique natural areas, etc.);~~
- ~~(3) Respects the physical qualities of the land;~~
- ~~(4) Reduces the overall development and public costs; and~~
- ~~(5) Preserves open space to serve recreational, scenic and public service purposes.~~

~~(B) Cluster developments permit the modification and variation of lot and yard requirements provided that the sum of reductions in lot area becomes common open and for recreation space for the benefit of all residents of the cluster development or for dedication to public use.~~

~~(C) Cluster development may be required where protection of environmental resources identified in "An Inventory of Site of Cultural, Historic, Recreational, Biological, and Geological Significance in the Unincorporated Portions of Orange County" or "Inventory of the Natural Areas and Wildlife Habitats of Orange County, North Carolina" cannot be accomplished through the development of a standard subdivision.~~

~~(D) If not required by (C) above, cluster developments are an option for the developer.~~

~~(E) All cluster developments, whether required or opted for by the developer, shall be done in compliance with the provisions and standards related to or referring to cluster developments contained in this Section.~~

### ~~7.12.2 Criteria in the Rural Buffer (RB) Zoning District<sup>22</sup>~~

~~Cluster developments may be approved in the Rural Buffer zoning district upon the following findings:~~

- ~~(A) The tract is a minimum of 400,000 square feet.~~
- ~~(B) Approved water supply and wastewater treatment systems are available and each lot is served by separate water supply and sewerage connections.~~
- ~~(C) The total number of lots proposed for the tract, excluding parcels of reserved recreation/open space is not greater than the number determined by dividing the gross land area, excluding public and private road rights of way, by the minimum lot size required for the Rural Buffer zoning district and Watershed Protection Overlay District requirements for University Lake Watershed, if applicable.~~
- ~~(D) The recreation/open space reserved within the tract conforms Section 7.11.~~
- ~~(E) The minimum amount of land reserved as recreation/open space shall be the sum of all reductions in minimum lot area as a result of the cluster form of development and/or the minimum recreation/open space required in Section 7.11, whichever is greater.~~
- ~~(F) Cluster open space shall not include areas devoted to public or private vehicular streets.~~

<sup>21</sup> As staff has indicated in previous presentations, the current Cluster Development section is never employed by a subdivider given the Flexible Development – Conservation Cluster option. We are recommending the section be deleted in its entirety in favor of promoting the aforementioned Flexible Development option.

<sup>22</sup> Please note staff has moved the provisions contained in Section 7.12.2 to the Flexible Development – Conservation Cluster design standards to ensure continued compliance with established RB development standards as articulated within the County Comprehensive Plan as well as the Joint Planning Land Use Plan and Agreement.

- ~~(G) — Cluster developments in the UNIV-PW and UNIV-CA Watershed Protection Overlay Districts shall comply with the development standards as set forth in Sections 4.2 and 6.6 of this Ordinance.~~

### ~~7.12.3 — Reductions in Lot and Setback Requirements~~

~~For lots created as part of a cluster development, minimum lot area, lot width and setback requirements as specified in Article 3 of this Ordinance may be reduced as set forth below:~~

- ~~(A) — Minimum lot area requirements may be reduced to no less than one acre.~~
- ~~(B) — Minimum lot width requirements may be reduced to no less than 104 feet.~~
- ~~(C) — Minimum front setback requirements may be reduced to 30 feet except where the front lot line forms an exterior boundary of the cluster development in which case no reduction shall be permitted.~~
- ~~(D) — Minimum rear and side setback requirements may be reduced to 10 feet except where the rear and side lot line forms an exterior boundary of the cluster development in which case no reduction shall be permitted.~~

### ~~7.12.4 — Ownership of and Conveyance of Cluster Recreation/Open Space~~

- ~~(A) — Cluster recreation/open space shall be dedicated to the public unless the Board of County Commissioners finds that the size, location, type of development, or cost of development or maintenance of such space or the availability of public open/recreation space would make public use undesirable or unnecessary.~~
- ~~(B) — The applicant may request that the cluster recreation/open space be designated for private use.~~
- ~~(C) — If cluster open/recreation space is not dedicated for public use, it shall be subject to approved legal arrangements sufficient to assure its maintenance and preservation for the intended purpose as provided in Section 7.14.3.~~
- ~~(D)(I) — Open space designed to protect environmental resources identified in “An Inventory of Sites of Cultural, Historic, Recreational, Biological, and Geological Significance in the Unincorporated Portions of Orange County” or “Inventory of the Natural Areas and Wildlife Habitats of Orange County, North Carolina” shall be adequately protected through dedication of conservation easements, dedication to Orange County, restrictive covenants, or other means found appropriate for the long term preservation of the particular site or resource.~~

### ~~7.12.5 — Criteria for Approval of Major Subdivision Preliminary Plan or Minor Subdivision Final Plat~~

~~In addition to the requirements outlined in Article 2, an approved major subdivision preliminary plan or minor subdivision Final Plat shall provide for a total environment better than that which could be achieved under standard regulations and must meet the following criteria:~~

- ~~(A) — Individual lots, buildings and streets shall be designed and situated to minimize alteration of the natural site features to be preserved.~~
- ~~(B) — The usability of cluster open/recreation space shall be determined by the size, shape, topographic and location requirements specified in Section 7.11.~~
- ~~(C) — Cluster open space shall include irreplaceable natural features such as, but not limited to, streams, significant stands of trees, individual trees of significant size and/or species, uncommon plant communities, wildlife habitats and rock outcroppings.~~
- ~~(D) — Cluster recreation space shall be easily accessible to pedestrians, including the handicapped.~~
- ~~(E) — (E) — The suitability of cluster open space intended for scenic value shall be determined by its visibility from adjoining properties and streets and shall seek to lessen the area devoted to motor vehicle access.~~

- ~~(F) — Diversity and originality in lot layout shall be encouraged to achieve the best possible relationship between the land and the development.~~
- ~~(G) — Up to one-fourth of the land with slopes greater than 15% may be removed or altered only when such slopes are small and isolated and do not otherwise adversely affect the design of the development.~~
- ~~(H) — At least 20% of the gross land area is designated as common open space.~~
- ~~(I)(J) — No more than 50% of the required common open space shall be used exclusively for sewage treatment systems, utilities, or other uses which prohibit access by the residents of the cluster subdivision. This restriction does not apply to areas of historic or natural significance which may be protected by access restrictions.~~

#### **7.12.6 Additional Submittal Requirements**

In addition to the requirements outlined in Article 2 regarding Major Subdivision Preliminary Plans or Minor Subdivision Final Plans, applications must be accompanied by:

- ~~(A) — Application shall be identified as a Cluster Development Subdivision.~~
- ~~(B) — A precise description of the extent to which the proposed modifications depart from the standard requirements of the applicable zoning district and the reasons for such departures.~~
- ~~(C) — The location, type and area of the common open space and the adequacy of the amount and function of the open space in terms of densities and dwelling types proposed.~~
- ~~(D) — Written site analysis accompanies by an illustrative site map, which identifies the following:
  - ~~(1) — Slopes 7½ – 15%,~~
  - ~~(2) — Slopes 15% and greater,~~
  - ~~(3) — Existing vegetation,~~
  - ~~(4) — Significant stands of trees,~~
  - ~~(5) — Significant examples of a particular species of tree occurring in a native stand and specimen trees,~~
  - ~~(6) — Drainage and waterways,~~
  - ~~(7) — Special flood hazard areas,~~
  - ~~(8) — Significant rock outcroppings,~~
  - ~~(9) — Significant scenic vistas,~~
  - ~~(10) — Soils with limitations for on-site wastewater systems and building development,~~
  - ~~(11) — The manner in which the plan makes adequate provision for water and wastewater treatment, and~~
  - ~~(12) — The relationship of the plan to the physical environment, the neighborhood in which it is proposed to be established and the intent of the provisions providing for the establishment of a cluster subdivision.~~~~

### **Section 7.13: SECTION 7.12: FLEXIBLE DEVELOPMENTS**

#### **7.13.47.12.1 Purpose**

- ~~(A) — The purpose of Flexible Development is to preserve agricultural and forestry lands, natural and cultural features, environmentally sensitive areas, and areas with potential for maintaining the rural community character of the rural community that might otherwise be lost through or marginalized with a conventional development approaches.~~

- (B) To accomplish this goal, greater flexibility and creativity in the design of such developments is encouraged and allowed. Specific objectives are as follows:
- (1) To preserve areas of the county with productive soils for continued agricultural and forestry use by preserving blocks of land large enough to allow for efficient operations.
  - (2) To encourage the preservation and improvement of habitat for various forms of wildlife and to create new woodlands through natural succession and reforestation where appropriate.
  - (3) To minimize site disturbance and erosion ~~through retention~~ by retaining of existing vegetation and avoiding development on steep slopes.
  - (4) To preserve open land, including those areas containing unique and sensitive features such as natural areas and wildlife habitats, steep slopes, streams, wetlands, and floodplains.
  - (5) To preserve scenic views and elements of the county's rural character, and to minimize perceived density by minimizing views of new development from existing roads.
  - (6) To preserve and maintain historic and archaeological sites and structures that serve as significant visible reminders of the county's social and architectural history.
  - (7) To provide for the active and low impact recreational needs of county residents, including implementation of the Master Recreation & Parks Plan.
  - (8) To provide greater efficiency in the siting of services and infrastructure by reducing road length, utility runs, and the amount of paving for development.
  - (9) To create compact neighborhoods accessible to ~~open space~~ Common Open Space amenities and with a strong identity.
  - (9)(10) To strategically organize and preserve Common Open Space areas within the context of their surroundings and greater community.

#### 7.13.27.12.2 **Applicability**

- (A) All Flexible Development subdivision plats shall comply with the requirements and standards specified herein and in all respects with other applicable codes and ordinances to the extent that they are not in conflict with these provisions.
- (B) Flexible Developments located within the Stoney Creek Basin Overlay District shall comply with provisions of Section 4.8 of this Ordinance.
- (C) The Village Option for a Flexible Development shall not be located in the Rural Buffer (RB) zoning district.
- (D) ~~Applicants/Subdividers~~ Subdividers seeking approval of a Minor Subdivision Final Plat by the Planning Department are encouraged to work with the Planning Department staff in identifying and preserving Common Open Space ~~open space areas~~ as part of such developments.
- (E) Flexible Developments shall comply with applicable density limits as detailed within Section 4.2 of this Ordinance.<sup>23</sup>

<sup>23</sup> Staff is adding language to ensure there is no confusion with respect to a project's compliance with established density limits.

### 7.12.3 Criteria in the Rural Buffer (RB) Zoning District<sup>24</sup>

Flexible developments may be approved in the Rural Buffer zoning district upon the following findings:

- (A) The tract is a minimum of 400,000 square feet.
- (B) Approved water supply and wastewater treatment systems are available and each lot is served by separate water supply and sanitary sewage connections.
- (C) The total number of lots proposed for the tract, excluding parcels of reserved Common Open Space, is not greater than the number determined by dividing the gross land area (excluding public and private road rights-of-way) by the minimum lot size required for the Rural Buffer zoning district and Watershed Protection Overlay District requirements for University Lake Watershed, if applicable.
- (D) The Common Open Space reserved within the tract conforms to Section 7.11.
- (E) The minimum amount of land reserved as Common Open Space shall be the sum of all reductions in minimum lot area as a result of the flexible form of development and/or the minimum Common Open Space required in Section 7.11, whichever is greater.
- (F) Flexible Common Open Space shall not include areas devoted to public or private vehicular streets.
- (D) Flexible developments in the UNIV-PW and UNIV-CA Watershed Protection Overlay Districts shall comply with the development standards as set forth in Section 4.2 of this Ordinance.<sup>25</sup>

### 7.13.37.12.4 Common Open Space Standards

#### **(A) Minimum Required Common Open Space**

- (1) Where a ~~developer~~ subdivider elects to seek approval of a Major Subdivision utilizing the Flexible Development Option as specified herein, at least 33% of the total land area in the Flexible Development must be set aside as protected Common Open Space~~open space~~.
- (2) Where a subdivider elects to seek approval of a Minor Subdivision utilizing the Flexible Development Option as specified herein, the development shall provide at least:
  - (a) 33% of the total land area in Common Open Space areas for subdivisions maintaining a minimum residential lot size of 43,560 square feet;
  - (b) 40% of the total land area in Common Open Space areas for subdivisions maintaining a minimum residential lot size of 30,000 square feet;
  - (c) 45% of the total land area in Common Open Space areas for subdivisions maintaining a minimum residential lot size of 20,000 square feet; OR
  - (d) 50% of the total land area in Common Open Space areas for subdivisions maintaining a minimum residential lot size of 15,000 square feet.

<sup>24</sup> Original language from Section 7.12.2 Cluster Developments of the UDO updated to use the term “Flexible” rather than “Cluster”. For more information please refer to Footnote number 23.

<sup>25</sup> Language is unnecessary given wording in Section 7.12.2 (E) of the proposed amendment.

(3) Such ~~Common~~ Open ~~Space~~ shall meet the standards contained in this Section unless the ~~subdivider developer~~ chooses to seek approval of a conventional subdivision as specified herein.

**(B) Planning for Common Open Space**

- (1) ~~Common~~ Open ~~space~~ ~~Space~~ design in subdivision projects shall be planned as part of a comprehensive project design.
- (2) The long-term success of open space is improved when a layout is chosen with a perspective of future usefulness, efficiency, connectivity and compatibility with both existing development and other types of open spaces.
- (3) ~~Common~~ Open ~~space~~ ~~Space~~ is an important amenity for subdivision residents and an essential part of the County's character and environmental quality.
- (4) ~~Common~~ Open ~~space~~ ~~Space~~ planning must indicate a thoughtful understanding of that importance, and shall be evaluated based on its merits.
- (5) A Flexible Development subdivision plan shall always provide open space ~~which that~~ prominently meets at least one of the three following goals in open space design:
  - (a) The ~~Maintenance~~ ~~maintenance~~ of ~~Wildlife~~ ~~wildlife~~ ~~Corridors~~ ~~corridors~~ and/or ~~Habitat~~ ~~habitat~~;
  - (b) The ~~Preservation~~ ~~preservation~~ of ~~Rural~~ ~~rural~~ ~~Character~~ ~~character~~; or
  - (c) The ~~Creation~~ ~~creation~~ or ~~Protection~~ ~~protection~~ of ~~Space~~ ~~space~~ for ~~Outdoor~~ ~~outdoor~~ ~~Recreation~~ ~~recreation~~.
- (6) When relevant, a Flexible Development subdivision plan shall address the following additional goals in open space design:
  - (a) The ~~Protection~~ ~~protection~~ of ~~Other~~ ~~other~~ ~~Natural~~ ~~natural~~ ~~Resources~~ ~~resources~~;
  - (b) The ~~Improvement~~ ~~improvement~~ or ~~Maintenance~~ ~~maintenance~~ of ~~Visual~~ ~~visual~~ ~~Amenities~~ ~~amenities~~;
  - (c) The ~~Creation~~ ~~creation~~ or ~~Protection~~ ~~protection~~ of ~~Managed~~ ~~managed~~ ~~Resource~~ ~~resource~~ ~~Production~~ ~~production~~;
  - (d) The ~~Improvement~~ ~~improvement~~ or ~~Maintenance~~ ~~maintenance~~ of ~~Public~~ ~~public~~ ~~Health~~ ~~health~~ and ~~Safety~~ ~~safety~~;
  - (e) The ~~Creation~~ ~~creation~~ or ~~Protection~~ ~~protection~~ of ~~Public~~ ~~public~~ ~~Purpose~~ ~~purpose~~ and/or ~~Utility~~ ~~utility~~ ~~Infrastructure~~ ~~infrastructure~~; and/or
  - (e)(f) ~~The enhancement and arrangement of open space areas so that they complement one another.~~
- (7) The primary means by which goals in open space design are addressed are composition, accessibility, size, and shape.
- (8) The primary way to achieve these open space design goals is by the application of standards to these fundamental land characteristics:
  - (a) Composition

The natural and constructed features of land indicate what types of open-space goals it can support. For each of the listed open space goals, certain characteristics are required or preferred. Compositional requirements and preferences are stated throughout this section.

(b) Accessibility

All Flexible Development plans shall, unless the open space is to preserve conservation values that require minimal disturbance, provide open space access to the public at large and/or subdivision residents, in accordance with Section ~~7.13.3(D)~~7.12.4

(c) Size and Shape

The usefulness of open space can be lessened when it is fragmented or shaped in long narrow segments. The most functional open space is large enough to maximize the benefits to ecological, environmental, cultural, recreational and/or visual uses. ~~Size and shape requirements are listed in Section 7.13.67.12.4.~~

(9) An open space plan may use other land characteristics as well, if a direct link to the goals of (5) and (6) above is shown.

(C) Types of **Common Open Space**

The types of ~~Common Open Space~~ ~~open space conserved dedicated~~ through Flexible Development shall be consistent with the following standards and shall be comprised of two types of land: "Primary ~~Conservation-Open Space~~ Areas" and "Secondary ~~Conservation-Open Space~~ Areas".

(1) **Primary ~~Conservation-Open Space~~ Areas**

(a) These areas have sensitive environmental features and/or significant cultural resource areas, which may make them legally or practically unbuildable.

~~(a)(b) These areas are reserved for passive uses (e.g., forests, pastures, meadows) and low impact active uses (e.g., trails, natural observation).~~

~~(b)(c) These areas are the first open spaces to be chosen towards meeting the minimum 33% requirement.~~

~~(e)(d) For Major and Minor Subdivisions utilizing the Flexible Design Option, Secondary ~~Open Space Conservation~~ Areas may not be counted towards the 33% requirement unless all potential Primary ~~Open Space Conservation~~ Areas, other than those listed in (e) below, have been set aside.~~

~~(d)(e) Primary ~~Conservation-Open Space~~ Areas include:~~

(i) Wetlands

Including, but not limited to, streams, creeks, ponds, reservoirs, stormwater management facilities for watershed protection purposes, and adjoining land areas identified as part of:

- a. The National Wetlands Inventory Maps for the county, prepared by the U.S. Fish and Wildlife Service;
- b. The "Orange County, N.C. Soil Survey," prepared by the U.S.D.A. Soil Conservation Service;
- c. The "Inventory of Natural Areas and Wildlife Habitats," as prepared by the Triangle Land Conservancy;
- d. LANDSAT satellite data collected and analyzed under the Albemarle-Pamlico Estuarine Study;
- e. A required environmental assessment or environmental impact statement; and/or
- f. A site analysis conducted by a registered engineer, land surveyor, landscape architect, architect or land planner using data from the U.S. Army Corps of Engineers.

(ii) Floodplains (100-year) and Alluvial Soils

Identified as part of:

- a. The "Flood Insurance Study: Orange County, N.C.," prepared by the Federal Emergency Management Agency (FEMA); and
- b. The "Orange County, N.C. Soil Survey," prepared by the U.S.D.A. Soil Conservation Service.

(iii) Steep Slopes

Defined as those greater than 25%, identified as part of:

- a. The "Orange County, N.C. Soil Survey," prepared by the U.S.D.A. Soil Conservation Service; and/or
- b. A site analysis conducted by a registered engineer, land surveyor, landscape architect, architect or land planner and calculated using topographic maps from an actual survey or from the U.S. Geological Survey.

(iv) Natural Areas and/or Wildlife Habitats

As identified as part of:

- a. The "Inventory of Natural Areas and Wildlife Habitats," as prepared by the Triangle Land Conservancy;
- b. A required environmental assessment or environmental impact statement; and/or
- c. An independent site study conducted by a trained botanist and/or biologist.

(v) Historic and Archaeological Sites

Listed on the National Register of Historic Places or included on the state's national register study list, designated as a local historic landmark, designated as a local historic district, and/or identified as having a high potential for archaeological remains as part of:

- a. The "Chapel Hill Township Architectural Survey: Final Report";
- b. The "Orange County Multiple Property Documentation Form: Historic Resources of Orange County";
- c. "An Archaeological Survey of Portions of Orange County, N.C.";
- d. A required environmental assessment or environmental impact statement; and/or
- e. An independent site study conducted by a trained architectural historian or archaeologist.

Where a historic or archaeological site is to be set aside as a separate lot, and preserved and/or restored as part of a flexible development, the entire area within the lot may be credited toward meeting the minimum open space requirement.

(vi) Wildlife Corridors

As identified in the Orange County Comprehensive Plan.

~~(e)~~(f) A single, connected area of open space that meets one or more of the definitions of Primary ~~Open Space Conservation~~ Area in (d) above may be expanded by up to 20% of its area to provide an additional buffer.

Although the expanded area might not meet any other definitions of Primary ~~Conservation-Open Space~~ Area, it may be considered as such, except that:

- (i) Expansion areas may not be, in turn, expanded under this provision,
- (ii) Expansion areas may not be selected as Primary Conservation Open Space Area unless all site areas meeting any other Primary Conservation Open Space Area definition have already been selected as open space, and
- (iii) Expansion areas must be in the same natural state as the Primary Conservation Open Space Area that is being expanded.

**(2) Secondary Conservation Open Space Areas**

- (a) If there is not enough Primary Conservation Open Space Area acreage on-site to meet the mandatory 33% open space requirement, and if there are no off-site Primary Conservation Open Space Areas areas proposed, then Secondary Conservation Open Space Areas shall be used to complete the 33% requirement.
- (b) Secondary Conservation Open Space Areas have fewer restrictions, with regard to location, and allow more flexibility to improve overall open space design, and have more active uses, purpose. These areas, unless specified otherwise, receive full credit toward meeting the minimum open space requirement of Flexible Developments.
- (c) Secondary Conservation Open Space Areas may be proposed for the following attributes:

(i) Access

- a. An area may be chosen as a Secondary Conservation Open Space Area because of its benefit in providing open space access to residential lots in accordance with regulations listed in 7.12.47-13.3(D).
- b. Access areas shall also include desired compositional, size and shape attributes, as listed in this subsection (2).

(ii) Composition

Sites chosen for Secondary Conservation Open Space Areas must have one or more of the following characteristics or uses:

a. Woodlands

Including forestland for the planting and production of trees and timber, where management practices such as selective timber harvesting and wildlife enhancement are employed. Such woodlands may consist of hardwood, pine, and/or mixed pine-hardwood forests identified as part of:

- i. LANDSAT satellite data collected and analyzed under the Albemarle-Pamlico Estuarine Study;
- ii. A site analysis conducted by a registered engineer, land surveyor, landscape architect, architect or land planner using aerial photographs and/or satellite imagery;
- iii. A required environmental assessment or environmental impact statement; and/or
- iv. An independent site study conducted by a trained botanist and/or forester.

b. Farmland

- i. Prime agricultural land as identified by the U.S.D.A. Soil Conservation Service in "Important Farmlands: Orange County, N.C." and which is in active use for the production of crops and/or the raising of livestock is particularly encouraged.
- ii. Farmland also includes space on individual lots used for gardens, ponds, horse paddocks and barns, and similar uses.
- c. Slopes of 15% to 25%  
Slopes that require special site planning due to their erosion potential, limitations for septic tank nitrification fields, and terrain or elevation changes. Such areas may be suitable for building, but higher site preparation and construction costs are to be expected.
- d. Other Historic and/or Archaeological Sites  
As identified from the same sources as for ~~primary Primary Open Space Area conservation area~~-sites (see 7.132.3(C)(1)(d)(v) above).
- e. Public and/or Private Recreation Areas and Facilities Including:
  - i. "Active recreation areas" such as public recreation areas, including district and community parks as identified in the master recreation and parks plan; and private recreation facilities, including golf courses, playing fields, playgrounds, swimming pools and courts for tennis, basketball, volleyball and similar sports. Because they represent uses in which natural lands are cleared, graded and managed for intensive activities, only half (50%) of the land in this category may be credited toward meeting the minimum open space requirement.
  - ii. "Low-impact recreation areas" such as pedestrian, bicycle and equestrian trails, picnic areas, community commons or greens, and similar kinds of areas, whether public or private. Land in this category receives full credit toward meeting the minimum open space requirement.
- f. Scenic Views  
Natural and cultural features visible from designated scenic road corridors, including views from the road as well as views outward from potential home sites are particularly encouraged. Landscape buffers that screen the view of development and preserve the character of rural public roads are also included in this category.
- g. Pedestrian Open Space Area (POSA)

A POSA is a traversable corridor at least 50 feet wide, undeveloped except for pedestrian recreation amenities, and in common ownership.

- i. POSAs are not required to have constructed walking paths, but they must be reasonably passable on foot.
- ii. The final composition of a POSA shall be evaluated on the intent of the overall access plan in the subdivision.
- iii. If the POSAs connect active or low impact recreation areas, or if the POSAs are identified as a recreation amenity, then a constructed path can be required as a part of the approval process.
- iv. Landscaping to ensure compatibility with the natural and scenic goals of open space shall also be evaluated.
- v. POSAs shall not be used to connect significant habitat and wildlife open-space sections. Wildlife corridors are for this purpose.
- vi. All POSAs shall be connected to other types of open space.
- vii. In a Flexible Development subdivision, all existing access ways shall, if practicable, be connected into a single system.
- viii. Flexible Subdivisions shall also have at least one POSA and, when practicable, connect to at least one outside edge of the subdivided property, in order to preserve the ability to connect the POSA with future, adjacent projects.
- ix. POSAs may be used to satisfy up to 5% of the 33% open space requirement for flexible development (for example, in a subdivision containing 100 acres of total land area, up to 1.65 acres of the total POSA in the subdivision would count towards meeting the 33% (33-acre) open space requirement).

h. Roadside Buffers

Areas buffering public roads, when they are at least 75 feet in width, measured in one direction from the nearest edge of the right-of-way may be considered Secondary ~~Conservation~~ Open Space Areas.

- i. Roadside buffers must be composed of undisturbed natural vegetation or of enhanced vegetation if enhanced vegetation is installed as a condition of the approval.

i. Greenbelt Linkages

Areas that can be used as part of a connected greenbelt path, within an approved County Greenbelt program.

(d) Size and Shape

Secondary Conservation-Open Space Areas, to the extent possible, shall be part of substantially sized and/or contiguously linked open space sections and meet guidelines as stated in Section 7.13.8.

**(D) Access to Common Open Space**

- (1) General public accessibility to and within open space shall be evaluated on a case-by-case analysis of the goals and the intended use(s) of the open space in that particular development.
  - (a) Primary Conservation-Open Space Areas, due to their considerable recreation, scenic and cultural public values, shall be made available for the use of the public at large through access by public road. However, it will not be feasible for public use to be provided in all cases (e.g., fragile cultural sites, protected and/or private habitat areas, hazardous slopes and wetlands, etc.).
  - (b) Secondary Conservation-Open Space Areas shall be available to, at least, subdivision residents, particularly when it includes active and low impact recreation areas. In some cases, this level of public entry may not be appropriate (e.g. working timber or agricultural resource areas).
- (2) If less than half of designated open space is Primary Conservation-Open Space Area, the subdivision plan shall provide direct access to Primary or Secondary Conservation-Open Space Area to at least 75% of project lots. The remaining lots shall be within approximately 300 feet of an accessible point of Primary or Secondary Conservation-Open Space Area.
- (3) If the majority of open space is Primary Conservation-Open Space Area, the subdivision plan shall provide direct access to Primary or Secondary Conservation-Open Space Area to at least 50% of project lots. The remaining lots shall be within approximately 600 feet of an accessible point of Primary or Secondary Conservation-Open Space Area.

**(E) Ownership of Common Open Space**

Common Open ~~space~~-Space within a flexible development may be owned and/or administered by any of the following methods, either individually or in combination. All open space shall be permanently restricted from further subdivision.

- (1) Fee simple dedication to the County, another unit of local government, the state or a private nonprofit land conservancy. The County may reject any proposed dedication at its discretion prior to or during the application process.
- (2) Dedication of conservation easements to the County, another unit of local government, the state or a private nonprofit land conservancy. Such easements may apply to a single property owned by a homeowner's association and/or to all or portions of individual lots owned by one or more property owners. The County may reject any proposed dedication at its discretion prior to or during the application process.
  - (a) Where conservation easements have been dedicated and accepted prior to application for approval of a flexible development proposal, the land subject to the easement may be counted toward satisfying the 33% open space requirement, provided that it is a portion of and in the same ownership as the land to be subdivided.
- (3) Ownership by a homeowner's association where specific development restrictions and maintenance requirements are included as part of its bylaws and as irrevocable articles of restrictive covenants.

- (4) Ownership by individual property owners, of estate lots only, where specific development restrictions and maintenance requirements are included as part of restrictive covenants and/or permanent conservation easements applicable to such lots.

(F) **Maintenance of Common Open Space**

- (1) Natural features shall be maintained in their natural condition, but may be modified to improve their appearance, function or overall condition, as recommended by experts in the particular area being modified. Permitted modifications may include the following:
  - (a) Reforestation;
  - (b) Woodland management;
  - (c) Pasture or cropland management;
  - (d) Buffer area landscaping;
  - (e) Stream bank protection; and/or
  - (f) Wetlands management
- (2) Unless accepted for dedication or otherwise agreed to by the County, another unit of local government, the state or a private nonprofit land conservancy, the cost and responsibility of maintaining open space and any facilities located thereon shall be borne by the property owner and/or homeowner's association.

**7.13.47.12.5 Development Standards**

Plats for Major Subdivisions utilizing the Flexible Development ~~subdivision-plats~~Option shall be prepared in accordance with one or more of the following development options: Estate Lot Option; Conservation-Cluster Option; Village Option.

(A) **Estate Lot Option**

For lots created as part of an estate lot development, the following standards apply:

- (1) Each estate lot shall have a lot size of at least four acres.
- (2) For each estate lot, a building envelope (buildable area) shall be defined of sufficient size to accommodate a single-family detached dwelling and customary accessory uses, including, but not limited to, storage buildings and garages, patios and decks, lawns, and driveways, septic systems including repair areas and well sites.
- (3) The building envelope of an estate lot may not exceed 50% of the total lot area and shall not include designated Primary and/or Secondary Conservation-Open Space Areas.
- (4) Only the area outside of the building envelope of an estate lot may be counted toward meeting the minimum open space requirement. To the highest degree possible, the open space area shall be contiguous to open space designated on the adjacent lot(s) and shall not include required front yard and side yard setbacks unless the front or side yard contains significant ~~primary-or-secondary conservation areas~~Primary or Secondary Open Space Areas.
- (5) A septic system repair area and/or well can be located within the ~~secondary conservation~~Secondary Open Space Area area-provided the land designated for the septic system and/or well is not more than one quarter of the ~~secondary conservation~~Secondary Open Space Area area-of the lot. No septic system, repair area and/or well can be located in the ~~primary-conservation-area~~Primary Open Space Area of a lot.
- (6) Each building envelope on an estate lot shall adhere to the following spacing standards:

TABLE 7.13.4.A.6: BUILDING ENVELOPE SPACING STANDARDS FOR ESTATE LOTS	
Minimum spacing between building envelopes on adjacent lots	100 feet
Minimum spacing between building envelope and subdivision boundary or off-site public street right-of-way	150 feet
Minimum spacing between building envelope and on-site public or private street right-of-way	50 feet
Minimum spacing between building envelope and any other lot line	30 feet
Minimum spacing between building envelope and wetland or water bodies (lakes, ponds, streams, etc.)	100 feet

- (7) Provided the arrangement, design, and shape of estate lots is such that lots provide satisfactory and desirable sites for building; contribute to the preservation of designated Primary and/or Secondary **Conservation-Open Space** Areas; provide convenient access for emergency service vehicles; and satisfy all building envelope spacing standards, the minimum required lot frontage may be reduced to not less than 20 feet for flag lots, and lots fronting on culs-de-sac and "T" turnarounds.
- (8) Estate lots shall be restricted against further subdivision through deed restrictions and/or permanent conservation easements. Primary and Secondary **Conservation-Open Space** Areas located outside building envelopes shall be restricted against further development through conservation easements and/or deed restrictions.
- (9) Estate lot subdivision road(s) shall be designed to provide internal access to all lots in the subdivision. Private driveways shall access existing state maintained roads only via subdivision roads providing internal access to lots in the subdivision.
- (10) A 100-foot Type F buffer meeting the requirements of Section 6.8.6 shall be provided along the frontage of all existing state maintained roads adjacent to the subdivision boundaries.
  - (a) In areas of dense mature forest, existing vegetation may be used to fulfill the buffer requirements.
  - (b) If additional planting is required, new plant materials that satisfy the buffer requirements of Section 6.8.5 shall be installed and maintained in accordance with provisions of Section 6.8.

**(B) Conservation-Cluster Option**

A conservation-cluster subdivision is one in which building lots are grouped together through a transfer of allowable density within the subdivided tract provided the transfer of density within the subdivision does not increase the average density in any overlay zoning district.

In a conservation-cluster subdivision designed with density transfer, lots smaller than the minimum lot size permitted in the zoning district are allowed provided such lots and subdivisions are developed in accordance with the following standards:

- (1) Land saved through lot size reductions shall consist of designated Primary and/or Secondary **Conservation-Open Space** Areas.
- (2) The total amount of land set aside as Primary and Secondary **Conservation-Open Space** Areas shall equal the sum of all reductions in minimum lot area and shall comprise at least 33% of the total land area in the subdivision. For Minor subdivisions utilizing this option, the minimum amount of open space may increase beyond amount per UDO 7.12.4(A) (2).

- (3) Both Primary and Secondary ~~Conservation-Open Space~~ Areas shall be placed in undivided preserves which adjoin housing areas that have been designed more compactly to create larger conservation units that may be enjoyed by all residents of the subdivision and, if possible, enjoyed visually by the general public. Such undivided open space shall be accessible to the largest number of lots within the development. To achieve this, the majority of houselots should abut undivided open space to provide residents with direct views and access. Safe and convenient pedestrian access to the open space from all adjoining houselots shall be provided, except in the case of farmland or other resource areas vulnerable to human disturbance. The design must meet the criteria outlined in Section 7.13.8 which sets forth conservation area design characteristics.
- (4) Where undivided open space is designated as separate non-contiguous parcels, no parcel shall consist of less than three acres in area, nor have a length-to-width ratio in excess of 4:1, except such areas that are specifically designed for neighborhood commons or greens; playfields; buffers adjacent to wetlands, watercourses, and rural roads; wildlife corridors; or trail links.
- (5) Each lot must contain a buildable area of sufficient size to accommodate a single-family detached dwelling and customary accessory uses, including, but not limited to, storage buildings and garages, patios and decks, lawns, driveways, septic systems including repair areas and well sites. A septic system and/or well site may be located in a ~~secondary conservation open space area~~ Secondary Open Space Area provided it does not occupy more than one quarter of the ~~secondary conservation area~~ Secondary Open Space Area. No septic system, repair area and/or well can be located in the ~~primary conservation area~~ Primary Open Space Area.
- (6) Provided the arrangement, design, and shape of cluster lots is such that lots provide satisfactory and desirable sites for building, and contribute to the preservation of designated Primary and/or Secondary ~~Conservation-Open Space~~ Areas, minimum lot area, lot width, and setback requirements as specified in Article 3 of this Ordinance may be reduced as set forth below.
- (a) ~~For Major Subdivisions, the m~~ Minimum lot area requirements may be reduced by 65% of the minimum lot size permitted by the zoning district including any overlay district requirements; however, minimum lot area may not be smaller than 40,000 square feet within a watershed protection overlay district where lots are served by individual septic systems.
- ~~(a)~~(b) ~~For Minor Subdivisions utilizing this option, the minimum amount of open space may increase beyond amount per UDO 7.12.4 (A) (2).~~
- ~~(b)~~(c) Minimum lot width requirements may be reduced to 100 feet in the AR and R1 Districts. Minimum lot width requirements may be reduced by 30% in all other zoning districts.
- ~~(e)~~(d) Minimum front, rear, and side setback requirements may be reduced by 25% but shall be no less than ten feet. When a lot line forms an exterior boundary of the cluster development, no reduction shall be permitted.
- ~~(d)~~(e) Minimum lot frontage requirements may be reduced to 20 feet for lots fronting on culs-de-sac and "T" turnarounds.
- ~~(e)~~(f) Minimum spacing between building envelopes and the subdivision boundary or off-site public street right-of-way shall be 100 feet and may be counted as open space.

- (7) ~~Conservation-cluster~~Conservation Cluster subdivision road(s) shall be designed to provide internal access to all lots in the subdivision. Private driveways shall access existing state maintained roads only via subdivision roads providing internal access to lots in the subdivision.
- (8) Cluster lots shall be restricted against further subdivision through deed restrictions and/or permanent conservation easements. Primary and Secondary ~~Conservation-Open Space~~ Areas shall be dedicated to Orange County, another unit of local government, the State of North Carolina, a private non-profit land conservancy or a homeowners association.

**(C) Village Option<sup>26</sup>**

Villages represent a modified form of cluster development intended to serve as physical, social, and economic focal points in rural portions of the county. Consequently, villages are appropriate locations for civic uses, such as schools and churches, as well as a variety of economic functions, including stores and workshops, and residential building types designed to accommodate a range of socio-economic groups.

- (1) The location, size, and composition of each village will be a function of the development potential of the land associated with the settlement, including, but not limited to:
  - (a) The zoning of the site, including the maximum allowable number of dwelling units;
  - (b) The method of water supply and sewage disposal, including the number of approved disposal sites;
  - (c) The presence of Primary and Secondary ~~Conservation-Open Space~~ Areas, including contiguous areas located on adjoining properties;
  - (d) The presence of existing and/or proposed transit routes and corridors, and areas of future urban growth; e.g., Transition Areas; and
  - (e) The presence of protected watersheds, including defined critical areas.

**(2) Villages shall meet the following general standards:**

**(a) Village Proper**

The village proper is the village, comprised of residential units with associated commercial, office, and service functions.

- (i) The village proper may not exceed 100 acres in size and shall be built in a compact manner so as to permit pedestrian accessibility to its center within a five minute walk.
- (ii) The village proper is to be distinguished from the village conservancy by a well-defined "edge" of closely spaced buildings in contrast with the open space of the conservancy.
- (iii) A village proper may not be located closer than one-half mile from the edge of another village proper, and every effort shall be made to keep the separate settlements visually distinct.
- (iv) The village proper is to be built in a generally rectilinear pattern of interconnecting streets, defined by buildings, street furniture, and landscaping, as places to be shared equally by pedestrians and automobiles.

<sup>26</sup> Staff had recommended this provision become a new Conditional Zoning district. This will be addressed as part of a future UDO amendment package. For now staff is recommending minor text changes to ensure consistency throughout the document.

- (v) A hierarchy of parks and squares is to be provided and distributed strategically throughout the village and culminate in a central civic space called the "Village Green."
  - (vi) Village lots shall be restricted from further subdivision through deed restrictions and/or permanent conservation easements.
  - (vii) The village proper may be composed of four uses: Storefront Uses, Townhouse Uses, single-family detached Residential Uses, and Workshop Uses. These uses and the standards applicable to each are described in (3) below.
- (b) Village Conservancy

The village conservancy is a continuous open space area surrounding the village proper, representing the land from which dwellings have been transferred to the village proper.

- (i) In lieu of a continuous open space area, a village conservancy may consist of open space and estate lots, provided all estate lots meet the standards of (A) above.
- (ii) Open space within the village conservancy shall consist of designated Primary and/or Secondary Conservation-Open Space Areas.
- (iii) The amount of land set aside as open space in the village conservancy shall comprise at least 33% of the total land area in the subdivision and shall be no less than 100 feet in width at any place, except for short connecting links.
- (iv) Primary and Secondary Conservation-Open Space Areas within the village conservancy shall be restricted from further development through dedication to Orange County, another unit of local government, the State of North Carolina, a private non-profit land conservancy or a homeowners association, including the recording of conservation easements.

**(3) Village Development Standards**

The specific standards applicable to the village proper and its component parts are described in the following tables.

TABLE 7.13.4.C.3: VILLAGE DEVELOPMENT STANDARDS	
GENERAL PROVISIONS	
Land Use	<ul style="list-style-type: none"> <li>▪ Land within a village shall be available for uses as provided in this subsection (C).</li> <li>▪ Mixed uses of buildings is encouraged in central areas of the Village Proper, and single-story, single-use buildings are discouraged.</li> </ul>
Land Allocation	<ul style="list-style-type: none"> <li>▪ Similar land use categories shall generally front across streets, and dissimilar categories may abut at rear property lines.</li> <li>▪ Corner lots which front on streets of dissimilar use categories shall be designated the category with the greater intensity of use.</li> </ul>
Lots & Buildings	<ul style="list-style-type: none"> <li>▪ Lot design and building placement within each area of the village proper should be varied to create a distinct character, and permit a range of activities and intensities of use.</li> <li>▪ All buildings, except outbuildings, shall have their main entrance opening to a street or square.</li> <li>▪ Stoops, open colonnades, and open porches may encroach into the front yard setbacks.</li> <li>▪ Buildings placed less than five feet from a side property line shall be windowless on those sides (does not apply to front and back); provided, however, small ventilation windows and clerestory windows are permitted.</li> </ul>

TABLE 7.13.4.C.3: VILLAGE DEVELOPMENT STANDARDS	
Streets & Alleys	<ul style="list-style-type: none"> <li>▪ Lots shall front on a street with a maximum right-of-way width of 60 feet, consisting of at least two 12-foot travel lanes, 8-foot parallel parking on one side, and a 5-foot sidewalk on one side.</li> <li>▪ Lots shall have their rear lot lines coinciding with the right-of-way of a 24-foot alley, containing a vehicular pavement width of at least 12 feet if one-way; 16 feet if two-way.</li> <li>▪ Provision shall be made for service delivery, utility poles (if any) and trash collection at the rear lot line.</li> <li>▪ Street trees shall be planted on both sides of the street at no more than 40-foot intervals. They shall be deciduous and of varieties that obtain a mature height of at least 50 feet.</li> </ul>
Parking	<ul style="list-style-type: none"> <li>▪ The number of parking and loading spaces shall be provided in accordance with Section 6.9 of this Ordinance.</li> <li>▪ All off-street parking spaces shall be located to the side or rear of the building. When access is through the lot frontage, garages and carports shall be located a minimum of 10 feet behind the front building wall line. Front-facing garage doors shall be painted to match the color of the main house.</li> </ul>
WORKSHOP USE PROVISIONS	
Land Use	<p>Land designated for Workshop Uses may be used for the following purposes:</p> <ul style="list-style-type: none"> <li>▪ Farm service support establishments.</li> <li>▪ Building and landscaping contractors.</li> <li>▪ Establishments involved in the repair, assembly, and/or manufacture of products which require only hand or table mounted electrical tools.</li> <li>▪ Automotive service uses, including the servicing and repair of automobiles, and sale of automobile parts, but excluding body repair shop and automobile storage.</li> <li>▪ Warehousing and distribution establishments, provided all storage is conducted entirely within a building.</li> </ul>
Land Allocation	<ul style="list-style-type: none"> <li>▪ Not more than 2% of the land area in the Village Proper shall be designated for Workshop Area use.</li> <li>▪ Workshop Area lots shall be grouped together, located at the edge of the Village Proper, and be no closer than 500 feet to the Village Green.</li> <li>▪ Workshop Area lots shall have a maximum lot frontage of 150 feet.</li> <li>▪ A maximum of two lots may be combined for the purpose of constructing a single building.</li> <li>▪ Setback requirements on combined lots shall be the same as for single lots.</li> </ul>
Lots & Buildings	<ul style="list-style-type: none"> <li>▪ Buildings shall not be required to provide setbacks from front or side property lines.</li> <li>▪ Workshop Area lots shall be separated from other types of use categories at the side or rear property lines (except an entry onto an alley) by a continuous masonry or wood wall of not less than 10 feet in height or by a landscaped buffer of 100 feet in width.</li> <li>▪ Building coverage may not exceed 70% of the lot area.</li> <li>▪ Buildings may not exceed two stories in height.</li> </ul>
Streets & Alleys	<ul style="list-style-type: none"> <li>▪ Lots shall front on a street with a maximum right-of-way width of 60 feet, consisting of at least two 12-foot travel lanes, 8-foot parallel parking on one side, and 5-foot sidewalks on both sides.</li> <li>▪ Lots shall have their rear lot lines coinciding with the right-of-way of a 24-foot alley, containing a vehicular pavement width of at least 12 feet if one-way; 16 feet if two-way.</li> <li>▪ Provision shall be made for service delivery, utility poles (if any) and trash collection at the rear lot line.</li> <li>▪ Street trees shall be planted on both sides of the street at no more than 40-foot intervals. They shall be deciduous and of varieties that obtain a mature height of at least 50 feet.</li> </ul>
Parking	<ul style="list-style-type: none"> <li>▪ The number of parking and loading spaces shall be provided in accordance with Section 6.9 of this Ordinance.</li> <li>▪ All off-street parking spaces shall be located to the side or rear of the building.</li> <li>▪ On-street parking spaces shall be curbside, and parallel to the curb.</li> </ul>

**7.13.57.12.6 Street Standards**

All streets in Flexible Developments shall conform to the standards contained in Section 7.8.3 or 7.8.4 and 6.17 of this Ordinance, provided, however, private roads will be permitted as follows:

- (A) The number of lots served by a private road shall be limited as specified by the Orange County Private Road Standards in Section 7.8.4 of this Ordinance.

- (B) Where a Flexible Development has 12 lots or less, the street system may consist of different classes of private roads provided a logical hierarchy of private roads is planned, with those of lower classification connecting to those of higher classification.
- (C) Where a Flexible Development has more than 12 lots, the street system may consist of public streets and private roads provided:
  - (1) The street system in the development forms a logical hierarchy of thoroughfares with streets of lower classification connecting to streets of higher classification;
  - (2) The development contains no more than 50 lots;
  - (3) All entrance roads serving the development are public streets;
  - (4) All streets which stub-out at property lines to provide for the extension of or connection to future street systems are public streets; and
  - (5) Private roads are not proposed as part of a Village (Section ~~7.13.4 (G))~~7.12.5 (C)) except in the Village Conservancy portion of the development.
- (D) Private, dead-end roads may be terminated in a cul-de-sac or "T" turnaround. Where a "T" turnaround is used as the terminus for a private road, the dimensions (e.g., turning radius) of the "T" shall be sufficient to allow emergency service and trash collection vehicles adequate room to turn around.
- (E) Existing street rights-of-way may not count toward the minimum 33% open space requirement. However, new street rights-of-way may be counted but only to the extent that they are required to pass through or by open space uses as defined herein to link one buildable portion of a site with another; and they are located and/or constructed so as to have no adverse impacts on Primary and Secondary ~~Conservation~~ Open Space Areas.

#### 7.13.67.12.7 Water Supply and Sewage Disposal Facilities

Water supply and sewage disposal facilities to serve Flexible Developments may be provided through the use of:

- (A) Individual wells and septic tanks provided either on each lot or in off-lot locations protected through recorded easements; or
- (B) A community water and/or sewage disposal system designed, constructed, and maintained in conformity with all applicable state, federal, and local rules, regulations, and policies; or
- (C) Connection to a water and/or sewage disposal system operated by a municipality, association, or water or sewer authority. System extensions are permitted only in accordance with applicable water and sewer, and land use policies and shall be sized only to serve the Flexible Development for which the system is extended; or
- (D) A combination of the above alternatives.

#### 7.13.77.12.8 Design Guidelines

##### (A) Determining Density or Lot Yield

- (1) Overall density shall be based upon the minimum lot size requirements of the zoning district in which the Flexible Development is to be located and on the basis of a Conventional Subdivision or "Yield" Plan conforming to the regulations governing lot dimensions, land suitable for development, and street design. Although such plans shall be conceptual in nature and are not intended to involve significant engineering or surveying costs, they must be realistic.
- (2) Potential building lots and streets must not be shown in areas that would not ordinarily be permitted in a Conventional Plan i.e., Special Flood Hazard Areas, wetlands, steep slopes, etc.).

- ~~(3) If the residential lots are proposed to be served by septic systems, the "Yield" plan shall show soil suitability for individual septic tanks by a preliminary soil suitability analysis performed in the field on at least 50% of the proposed lots with all of the proposed lots located on a map showing the location of soil types suited for septic systems based on the Orange County, N.C. Soil Survey. The soil suitability analysis and map shall be prepared by a Soil Scientist in consultation with the Soil Scientist of the Environmental Health Division of the Orange County Health Department.~~
- ~~(4) The number of lots achieved through the preparation of a Conventional Subdivision or "Yield" Plan is the number of lots which must be used in preparing the Flexible Development Plan. The number of lots may not be increased through the proposed use of an alternative or community sewage disposal system. Increases are permitted, however, at the Preliminary Plan stage where a more detailed soils analysis clearly demonstrates that a greater number of lots is achievable than shown on an approved Concept Plan.~~

**(B) Design Process**

Flexible Development subdivisions shall be designed around both the Primary and Secondary ~~Conservation-Open Space~~ 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 as follows:

**(1) Open Space Designation**

- (a) All potential ~~Conservation-Open Space~~ Areas, both Primary and Secondary, shall be identified using a ~~Site-site Analysis-analysis Map map~~ as described in Section 7.14.2(A)(3).
- (b) Primary ~~Conservation-Open Space~~ Areas shall consist of those features described in Section ~~7.13.3(C)(1)-7.12.4~~.
- (c) Secondary ~~Conservation-Open Space~~ Areas shall comprise at least half of the remaining land and shall include the most sensitive and noteworthy natural, scenic, and cultural resources as described in Section ~~7.13.3(C)(2)-7.12.4~~.
- (d) Guidance as to which parts of the remaining land to classify Secondary ~~Conservation-Open Space~~ Areas shall be based upon on-site visits and the criteria contained in Section ~~7.13.8-7.12.4~~.

**(2) House Site Location**

- (a) Potential house sites shall be tentatively located.
- (b) The proposed location of houses within each lot represents a significant decision with potential impacts on the ability of the development to meet the criteria contained in Section ~~7.13-87.12.4~~.
- (c) Generally, house sites should be located no closer than 100 feet from Primary ~~Conservation-Open Space~~ Areas.
- (d) House sites may be situated 50 feet from Secondary ~~Conservation-Open Space~~ Areas to permit the enjoyment of scenic views without negatively impacting Primary ~~Conservation-Open Space~~ Areas.

**(3) Street and Lot Layout**

- (a) Proposed streets shall be aligned to provide vehicular access to each house in the most reasonable and economical manner.

- (b) When lots and access streets are laid out, they shall be located in such a way that avoids or at least minimizes impacts on both Primary and Secondary ~~Conservation-Open Space~~ Areas.
- (c) To the greatest extent practical, wetland crossings and streets traversing slopes over 15% shall be strongly discouraged unless such streets link one buildable portion of a site with another and no other means of access is available.

~~(4) Drawing in the Lot Lines~~

- ~~(a) Lot lines shall be drawn around potential house sites.~~
- ~~(b) Each lot must contain a buildable area of sufficient size to accommodate a single-family detached dwelling and customary accessory uses, including, but not limited to, storage buildings and garages, patios and decks, lawns, and driveways.~~
- ~~(c) Individual wells and septic systems, where these are to be provided, may be located within the undivided conservation lands if sufficient space is not available on the lots.~~

~~7.13.87.12.9 Evaluation Criteria~~

~~(A) Generally~~

- ~~(1) All open space planning shall show consideration of the specific physical characteristics of the land parcel being developed, meet open space design goals, and adhere to the three fundamental land characteristics of open space as set forth in Section ~~7.13.3(B)(5)-7.12.4~~.~~
- ~~(2) At any given site, the types of resources may vary widely in character (e.g., a natural area compared to a historic site) and each type of resource may have areas of greater or lesser significance (e.g., a notable example of local vernacular building traditions compared to a much altered older home). Priorities for conserving such resources should therefore be based upon a thorough site analysis and an understanding of what is more special, unique, noteworthy, environmentally sensitive, and/or historic as compared with other similar features or different types of resources.~~
- ~~(3) In evaluating the layout of lots and open space, the criteria in (B) through (G) below will be considered as indicating design appropriate to the site's features and meeting the intent of the Flexible Development standards.~~
- ~~(4) Whereas diversity and originality in lot layout are encouraged, it is recognized that not all objectives may be achieved on a given site. Each applicant must therefore to achieve the best possible relationship between development and preservation objectives.~~

~~(B) Criteria Applicable to all Flexible Development Projects~~

~~The following criteria apply to all Flexible Development projects:~~

- ~~(1) The shape and placement of open space shall meet the following:
  - ~~(a) Be reasonably contiguous;~~
  - ~~(b) Be coherently configured;~~
  - ~~(c) Shall abut existing or potential open space on adjacent properties;~~
  - ~~(d) Be supportive of stated open space goals;~~
  - ~~(e) Should not be overly fragmented as to minimize edges; and~~~~

Where the goal of the Flexible Development project is to conserve scenic views, the following criteria apply:

- (1) Leave scenic views and vistas unblocked or uninterrupted, particularly as seen from public roadways. Consider "no-build, no-plant" buffers along public roadways where views or vistas are prominent or locally significant.
- (2) In wooded areas where a sense of enclosure is a feature to be maintained, consider a "no-build, no-cut" buffer created through the preservation of existing vegetation.
- (3) Where development is located in unwooded areas clearly visible from existing public roads, it should be buffered from direct view by a vegetative buffer or an earth berm constructed to reflect the topography of the surrounding area.
- (4) Protect rural roadside character and scenic views by providing larger lots (e.g., two acres or more) adjacent to existing public roads.
- (5) Protect rural roadside character and vehicular carrying capacity by avoiding development fronting on existing public roads and limiting access to all lots from interior rather than exterior roads.
- (6) Unless buildings can be effectively screened or buffered with trees, avoid siting new construction on or close to prominent hilltops or ridges where rooflines are seen above the horizon.

**(F) Historic and Archaeological Features**

Where the goal of the Flexible Development project is to conserve historic and archaeological sites and structures, the following criteria apply:

- (1) Design around and preserve sites of historic, archaeological or cultural value so as to safeguard the character of the feature(s), including fences and walls, farm outbuildings, burial grounds, abandoned roads, and earthworks.
- (2) New streets, driveways, fences, and utilities must be sited so as not to intrude unnecessarily on rural, historic landscapes. Wherever possible, streets and driveways are to follow existing hedgerows, fence lines, and historic farm drives.
- (3) New developments must include plantings which incorporate native species and historic landscape materials so as to harmonize with the character of the area.
- (4) Building designs and styles used in new construction should be compatible with the architectural style of historic buildings located on or adjacent to the site, especially in terms of scale, height, roof shape, and exterior materials.

**(G) Recreation Provision**

Where the goal of the Flexible Development project is to provide recreation and parks facilities for neighborhood residents and/or the general public, the guidelines contained in Section 7.11 shall apply.

**7.13.97.12.10 Density Bonuses for Major Subdivisions**

The maximum number of building lots or dwelling units in a Flexible Development shall not exceed the number that could otherwise be developed by the application of the minimum lot size requirement and/or density standard of the zoning district or districts in which the parcel is located. However, increases in the number of building lots or dwelling units are permitted through at least one of the following two options.

**(A) To Encourage Affordable Housing**

A density increase is permitted pursuant to Section 6.18 of this Ordinance where the Flexible Development provides on-site or off-site housing opportunities for low or moderate-income families.

**(B) To Encourage Additional Open Space**

- (1) A density increase is permitted where more than 33% of the total land area in the Flexible Development is set aside as protected open space. The amount of the density increase shall be based on the following standard:
  - (a) For each additional acre of protected open space provided in the Flexible Development, one additional building lot or dwelling unit is permitted.
- (2) In lieu of providing additional open space in the Flexible Development, the applicant may purchase in fee simple or less than fee (e.g., development rights) land separate from the Flexible Development which is comprised of Primary and/or Secondary ~~Conservation-Open Space~~ Areas as defined in Section 7.13.31. The amount of the density increase shall be based on the following standards:
  - (a) For each five acres of Primary ~~Conservation-Open Space~~ Area preserved off-site, one additional building lot or dwelling unit is permitted.
  - (b) For each two acres of Secondary ~~Conservation-Open Space~~ Area preserved off-site in areas which require a two-acre minimum lot size, one additional building lot or dwelling unit is permitted.
  - (c) For each one acre of Secondary ~~Conservation-Open Space~~ Area preserved off-site in areas which require a 40,000 square foot minimum lot size, one additional building lot or dwelling unit is permitted.
- (3) Land purchased in fee may be dedicated to Orange County. For land purchased in less than fee, a conservation easement dedicated to Orange County shall be recorded which restricts the development potential of the land.
- (4) Location of Open Space Bonus Units  
Density increases to encourage additional open space are limited to Flexible Developments proposed in the following locations:
  - (a) Within Transition Areas as designated in the Land Use Element of the Comprehensive Plan. Within such areas, the maximum permitted density is 2.5 dwelling units per acre unless the applicant obtains approval of a zoning district classification which permits a higher density.
  - (b) Outside of Transition Areas but within an area designated for service by a utility provider as part of an adopted long-range water and/or sewer extension plan. Within such areas, the maximum permitted density is 1.3 dwelling units per acre.
  - (c) Outside of Transition Areas but within 3/4 of a mile of an interstate corridor or a major thoroughfare designated as a high occupancy vehicle (HOV)/busway route as part of an adopted regional transit plan. Within such areas, the maximum permitted density is 2.5 dwelling units per acre.
  - (d) Outside of Transition Areas but within 1/2 mile of a transit station designated as part of an adopted regional transit plan. Within such areas, the maximum permitted density is five dwelling units per acre.

~~Within these locations, public water and sewer service may be extended, provided the applicant can demonstrate that such service is necessary to serve the density increases achieved through the use of the bonus option(s) described above.~~

### **7.12.11 Additional Submittal Requirements**

In addition to the requirements outlined in Article 2 regarding Major Subdivision Preliminary Plats or Minor Subdivision Final Plats, applications must be accompanied by:

- (A) The application, which shall identify the development as a Flexible Development Subdivision.
- (B) A precise description of the extent to which the proposed modifications depart from the standard requirements of the applicable zoning district and the reasons for such departures.
- (C) The location, type, and area of the Common Open Space, as well as the adequacy of the amount and function of the Common Open Space in terms of densities and dwelling types proposed.
- (D) Written site analysis accompanied by an illustrative site map, which identifies the following:
  - (1) Slopes 7½ - 15%.
  - (2) Slopes 15% and greater.
  - (3) Existing vegetation.
  - (4) Significant stands of trees.
  - (5) Significant examples of a particular species of tree occurring in a native stand and specimen trees.
  - (6) Drainage and waterways.
  - (7) Special flood hazard areas.
  - (8) Significant rock outcroppings.
  - (9) Significant scenic vistas.
  - (10) Soils with limitations for on-site wastewater systems and building development.
  - (11) The manner in which the plan makes adequate provision for water and wastewater treatment, and
  - (12) The relationship of the plan to the physical environment, the neighborhood in which it is proposed to be established, and the intent of the provisions providing for the establishment of a cluster subdivision.

## **Section 7.14: SECTION 7.13: SPECIFICATIONS FOR PLAT DRAWINGS**

The requirements of this Section shall apply to the format of drawings.

### **7.14.17.13.1 Minor Subdivisions**

#### **(A) Concept Plan**

~~The required Concept Plan for Minor Subdivisions consists of:~~

- ~~(1) A scaled copy of a current Orange County GIS Map for the property denoting its current orientation and layout. This map may be obtained from the Planning Department for a fee in accordance with the adopted fee schedule and shall contain at a minimum the following information:~~

- (a) Contour lines,
  - (b) Soils,
  - (c) Water features, and
  - (d) Any known easements.
- (2) A scaled drawing in black ink or pencil detailing the proposed division of property including, but not limited to, the following:
- (a) The scale of the drawing,
  - (b) A north arrow,
  - (c) The date of preparation,
  - (d) The Parcel Identification Number (PIN) number(s) of the lot(s) subject to the application,
  - ~~(e)~~ (e) The proposed property lines and use for each lot, including acreage and layout for Common Open Space areas,
  - ~~(e)(f)~~ (f) A site analysis map as outlined in UDO 7.13.2 (A)(3) below,
  - ~~(f)(g)~~ (g) The delineation of any known and required stream buffers on the proposed lot(s);<sub>1</sub>
  - ~~(g)(h)~~ (h) The proposed method for ingress and egress including a description of how each lot will be afforded access,
  - ~~(h)(i)~~ (i) A narrative detailing the development of all proposed roadways;<sub>1</sub>
  - ~~(i)(j)~~ (j) A private road justification, if required under Section 7.8, and
  - ~~(j)(k)~~ (k) Any other reasonable relevant information.

**(B) Final Plat**

Final plats shall adhere to the specifications contained in Section 7.14.3.

**7.14.27.13.2 Major Subdivisions**

**(A) Concept Plan**

**(1) In General**

- (a) The required Concept Plan for Major Subdivisions consists of three parts:
  - (i) A Site Analysis Map;
  - (ii) A Conventional Subdivision Option; and
  - (iii) A Flexible Development Option.
- (b) The Concept Plan shall be prepared according to the “four-step” process for designing Flexible Development subdivisions, as described herein.
- (c) The Concept Plan shall be drawn in black ink or pencil to a scale of not less than 200 feet to the inch. The scale chosen shall be large enough to show all required detail clearly and legibly.

**(2) Required General Information**

Each Site Analysis Map and Development Option shall contain the following general information:

- (a) A sketch vicinity map showing the location of the subdivision in relation to the existing street or highway system;

- (b) The plotted boundaries of the tract from deeds or maps of record and the portion of the tract to be subdivided;
- (c) The total acreage to be subdivided, including tax map, block and lot number reference;
- (d) The name, address and telephone number of the subdivider or owner and the person responsible for the subdivision design;
- (e) Scale, approximate north arrow and date of plat preparation; and
- (f) Name of subdivision.

**(3) Site Analysis Map**

As determined from readily identifiable on-site inventories, aerial photographs, maps of record, State/Federal resource maps, and local planning documents and inventories, the Site Analysis Map shall contain the following information:

(a) Primary Conservation-Open Space Areas

Identification of physical resources associated with the site which restrict its development potential or contain significant natural and/or cultural resources, including:

- (i) Topographic contours at ten-foot intervals, showing rock outcrops and slopes of 7 ½% to 15%, and more than 15%.
- (ii) Soil type locations and characteristics relating to seasonal high water table and depth to bedrock.
- (iii) Hydrologic characteristics of the site, including drainage tributaries, surface water bodies, floodplains, and wetlands.
- (iv) Natural areas, and wildlife habitats and corridors.
- (v) Historic and archaeological sites listed on the National Register of Historic Places or included on the State's National Register study list, designated as a local historic landmark, located in a local historic district, and/or identified as having a high potential for archaeological remains.

(b) Secondary Conservation-Open Space Areas

Identification of significant site elements on buildable portions of the site, including:

- (i) Vegetation of the site, defining approximate location and boundaries of woodland areas, and, wherever possible, vegetative association in terms of species and size. Information from aerial photographs shall be acceptable at the Concept Plan stage.
- (ii) Current land use and land cover (cultivated areas, pastures, etc.), existing buildings and structures, and burial grounds.
- (iii) Scenic views onto the site from surrounding roads as well as views of scenic features from within the site as determined by field survey.
- (iv) Other historic and archaeological sites and structures.

(c) Transportation and Utility Systems

Identification of facilities associated with the movement of people and goods, or the provision of public services, including:

- (i) Railroad and street rights-of-way.

- (iii) Proposed streets, pavement or travelway widths shall be denoted as well as typical roadway cross sections. The approximate centerline radius shall be shown on all proposed streets.
- (iv) Proposed street names shall be indicated on the plat. Such names shall not duplicate or approximate the name of any other street in Orange County except where a proposed street is the continuation or extension of an existing street.

**(6) Utility and Drainage Data**

- (a) Proposed utility systems shall be shown on the plat, including but not limited to:
  - (i) Public or private community water supply systems,
  - (ii) Public or private community sewage disposal systems, and
  - (iii) Storm drainage facilities, including existing and proposed drainageways and channels.
- (b) Any easements associated with such utility systems shall also be denoted and the purpose for the easements designated on the plat.

**(7) Landscaping and Buffer Data**

The following information shall be denoted on the Preliminary Plat to demonstrate compliance with the provisions of Section 6.8 of this Ordinance:

- (a) Existing trees and/or vegetation to be preserved and proposed trees and/or landscape materials to be installed.
- (b) Required buffers.

**(8) Special Flood Hazard Area (SFHA) Standards**

- (a) The boundary of the Special Flood Hazard Area zoning overlay district shall be designated and labeled on the plat as required by this Ordinance.
- (b) For subdivisions located within a Watershed Protection Overlay District, as identified on the Orange County Zoning Atlas, the following information shall be designated and labeled on the plat:
  - (i) Impervious surface data as required by Section 4.2 of this Ordinance;
  - (ii) Stream buffers as required by Section 6.13 of this Ordinance; and
  - (iii) Stormwater detention and/or retention sites and undisturbed areas for infiltration purposes as required by the Section 6.14 of this Ordinance.

**7.14.37.13.3 Final Plat Specifications**

**(A) Plat Preparation**

- (1) The Final Plat shall be drawn in accordance with the requirements of G.S. 47-30 as amended and to the specifications of this Section. The plat shall be prepared by a Professional Land Surveyor at a scale of not less than 100 feet to the inch nor more than 20 feet to the inch.
- (2) All Final Plats shall be prepared in accordance with the Manual of Practice for Land Surveying in North Carolina as prepared by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors.

**(B) Title Block**

A title block shall be placed on the plat, which shall contain the following information:

- (1) The name of the subdivision, preceded by the words "Final Plat of \_\_\_\_\_", which shall not duplicate nor closely approximate, phonetically or in spelling, the name of any other subdivision in Orange County, and, where the plat at hand is only part of a larger subdivision bearing the same name, the unit or section number of other necessary identification;
- (2) The graphic scale in feet per inch in words or figures and bar graph; a north arrow accurately positioned and designated as magnetic north, true north, North Carolina State Plane Coordinate Grid System North or north referenced to a recorded instrument with the recording reference shown; the date or dates the survey was conducted; and any other pertinent legend data;
- (3) State, county and township location; tax map, Parent PIN, block and lot number references; and deed book and page number citations for the property being subdivided; and
- (4) The name and address of the owner(s) of the land being subdivided; the name and address of the subdivider if other than the owner; and the name and address, registration number and seal of the land surveyor responsible for preparation of the plat.

**(C) Vicinity Map**

- (1) A vicinity map showing the general location of the subdivision in relation to the surrounding area shall be placed on the plat.
- (2) The vicinity map shall be drawn at a sufficient size to show the relationship of the tract to the existing street or highway system and readily recognized Orange County landmarks.
- (3) The vicinity map shall show the street names in addition to the State Road (S.R.) designations.

**(D) Existing Site Data**

Information on existing conditions shall be shown as noted below.

**(1) Boundary Lines**

- (a) The location, distance and bearings for the boundary line of the tract to be subdivided.
- (b) Areas not designated as lots that will be under common ownership such as a conservancy, public agency or similar entity or a homeowners' association's ownership shall be appropriately labeled as tracts.
- (c) Locations of corporate limits or Extraterritorial Zoning Jurisdiction (ETJ) lines, township boundaries, and county lines.
- (d) The names of owners and Parcel Identification Numbers (PIN) of adjacent land.
- (e) For adjacent land that is platted, the subdivision plat name, plat book and page number abutting the tract to be subdivided shall also be shown.

**(2) Other Conditions**

- (a) If any portion of the final plat includes land referenced in the "Inventory of the Natural Areas and Wildlife Habitats of Orange County, North Carolina" it shall be shown on the plat.

- (ii) Stream buffers as required by Section 6.13 of this Ordinance shall be delineated with widths noted on the Final Plat.
- (iii) Development restrictions within the stream buffer shall be specified in a separate document to be recorded concurrently with the Final Plat. The Deed Book and Page reference shall be noted on the Final Plat.
- (iv) Storm water detention and/or retention sites and undisturbed areas for infiltration purposes as required by Section 4.2 and 6.13 of this Ordinance shall be delineated and labeled on the Final Plat.
- (v) Any restrictions or requirements associated with the detention/retention sites shall be specified in a separate document to be recorded concurrently with the Final Plat. The Deed Book and Page reference shall be noted on the Final Plat.

**(6) Open Space and Protection of Natural and Cultural Resource Areas**

- (a) Any areas identified in the "Inventory of the Natural Areas and Wildlife Habitats of Orange County, North Carolina" shall be shown on the Final Plat.
- (b) A description of the resource, and the conditions of subdivision approval, which assure its protection shall be included in a document of describing development restriction to be recorded concurrently with the plat.
- (b)(c) Common Open Space areas indicating the type (e.g., Primary/Secondary), the use (e.g., passive trails), the land area, the fee simple owner of the land, and/or the holder of the easement.

**(F) Certificates and Endorsements**

**(1) General**

The Final Plat shall be made by or prepared under the supervision of a Professional Land Surveyor licensed to practice in the State of North Carolina and shall contain a certificate as required by Section 47-30 of the General Statutes and prepared in substantially the following form and acknowledged by a notary public:

"I, \_\_\_\_\_, certify that this plat was drawn under my supervision from (an actual survey made under my supervision) (deed description recorded in Book \_\_\_\_\_, Page \_\_\_\_\_, etc.) (other); that the ratio of precision is 1: \_\_\_\_\_; that the boundaries not surveyed are shown as broken lines plotted from information found in Book \_\_\_\_\_, Page \_\_\_\_\_; that this map was prepared in accordance with G.S. 47-30 as amended. Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 20\_\_\_\_."

Seal or Stamp

Surveyor Registration Number

(The surveyor shall also certify on the plat as required by G.S. 47-30 (f) (11) as amended.)

**(2) Certificates of Dedication and Maintenance**

- (a) The following certificate shall be printed on the Final Plat and shall be followed by the signature of the owner(s) of the property being subdivided acknowledged by a notary public.

"The undersigned owner hereby certifies that the land shown hereon is located within the subdivision-regulation jurisdiction of Orange County

### **Child Care Facility**

Includes child care centers, and any other child care arrangement not excluded by General Statute 110-86(2), that provides child care, regardless of the time of day, wherever operated, and whether or not operated for profit.

- a) A child care center is an arrangement where, at any one time, there are three or more pre-school children or nine or more school-aged children receiving child care.
- b) A family child care home is a child care arrangement located in a residence where, at any one time, more than two children, but fewer than nine children, receive child care.

### **Church**

A structure in which persons regularly assemble for religious worship, which is maintained and controlled by a religious body organized to sustain public worship.

### **Club or Lodge, Private**

An establishment operated by a corporation or association of persons for social, recreational, fraternal or charitable purposes, but which is not operated for profit or to render a service which is customarily conducted as a business.

### **Cluster Development**

A subdivision in which building lots are grouped together through a transfer of allowable density within the subdivided tract. Cluster development permits more efficient development by creating lots with gross land areas smaller than those required for conventional lot-by-lot development, yet maintains application of normal lot density standards to the subdivided tract as a whole by requiring that land area saved by lot size reductions be reserved as permanent open space and/or recreation space.

### **Cold Storage Facility**

A facility used to warehouse perishable foods and products prior to transport.

### **Commercial-Industrial Transition Activity Node Land**

Land near major transportation routes that could be provided with public water and wastewater services and is appropriate for retail and other commercial uses; manufacturing and other industrial uses; office and limited (not to exceed 25% of any Node) higher density residential uses.

### **Commercial Transition Activity Node Land**

Land focused on designated road intersections within either a 10- or 20-year transition area that is appropriate for retail and other commercial uses.

### **Common Area**

A portion of a development not attributed to an individual lot or owner that is designed for the common usage of the subdivision or development. These areas include Common Open Spaces, entry features, subdivision facilities, mail kiosks, sidewalks, parking lots, and walkways. Construction and maintenance of such areas is the responsibility of the homeowner/property owners' association.

### **Common Open Space**

Privately held land area set aside, dedicated, owned, and maintained for common use, access, and enjoyment of multiple owners. This type of open space is held within a defined lot or a defined easement area. It may be either restricted to the owners via homeowner/property owners' association (HOA/POA), or open to others as specified by the association.

- **Primary Open Space:**

These areas have sensitive environmental features and/or significant cultural resource areas, which may make them legally or practically unbuildable. These areas are reserved for passive uses (e.g., forests, pastures, meadows) and low impact active uses (e.g., trails, natural observation).

- **Secondary Open Space:**

Secondary Open Space Areas have fewer restrictions with regard to location, allow more flexibility to improve overall open space design, and have more active uses (e.g., community gardens, playgrounds).

- **Active Open Space:**

A subset or category of open space that defines the type and/or intensity of its use. Active areas are typically built areas and most often contain equipment and/or infrastructure. They are also frequently used by the residents. Examples include: trails, community gardens, and recreation fields, plays areas, pocket parks, and ball courts.

- **Passive Open Space:**

A subset or category of open space that defines the type and/or intensity of its use. Passive areas are typically undisturbed, conserved areas that have little to no direct physical human interaction within that portion of the open space.

- **Utility Open Space:**

A subset or category of open space that defines the type and/or intensity of its use. Utility areas are typically open but contain public and/or private utilities and services. Examples include utility lines or easements (e.g., water, sewer, gas, power), septic drain fields, and repair areas. Additional recreation use of these areas is typically limited based on the type of utility requirements that are in place.

### **Community Center**

A new or existing facility that is owned or operated by a non-profit group from the community for non-commercial activity.

### **Community Farmers' Market**

An enclosed or open-air facility for the retail sale of locally produced vegetables, flowers, meats, commodities, plants, crafts, etc. For the purpose of this definition, "local" means Orange County and counties that share a border with Orange County.

### **Composting Operation**

A facility designed and used for transforming food, yard waste and other organic material into soil or fertilizer through biological decomposition. This does not include backyard composting bins serving individual families.

### **Comprehensive Plan**

An internally consistent and compatible statement of policies for the long term, physical development of that portion of Orange County under County jurisdiction, consisting of a statement of development policies and maps and text setting forth objectives, principles, standards and plan proposals for physical development.

The Comprehensive Plan also consists of adopted area plans which focus on a portion of the County such as a township, a watershed or an interstate highway interchange. Technical information and/or task force reports prepared as part of a plan element or an area plan and incorporated as part of the appendix of or as a supplement are also considered part of the Comprehensive Plan.

### **Concentrating Solar Thermal (CST) Devices**

Systems that use lenses or mirrors, and often tracking systems, to focus or reflect a large area of sunlight into a small area. The concentrated energy is absorbed by a transfer fluid or gas and used as a heat source for either a conventional power plant, such as a steam power plant, or a power conversion unit, such as a sterling engine. Also known as Concentrated Solar Thermal (CST).

### **Conditional Districts**

A zoning technique authorized by N.C.G.S. 153A-342 which allows for the imposition of mutually agreed upon individualized development conditions as part of the legislative rezoning process. The Conditional

### **Farming**

The use of land consistent with the State of North Carolina's definition of farming, as contained in the General Statutes.

### **Farm, Bona Fide**

The use of land meeting the criteria for "Farm" as defined by the State of North Carolina in the General Statutes.

### **Farm Equipment, Non-Farm Use of**

Commercial use of the farm equipment for non-farming activities away from a bona fide farm. Examples include grading services and landscaping services.

### **Farm Equipment Rental, Sales and Service**

An establishment engaged in the rental, sales, service, and/or repair of construction or farm equipment, including excavators, loaders, graders, bulldozers, farm tractors 50 horsepower or more in size and other large, heavy-duty types of equipment used in the construction or farming industries but not including horse trailers, trucks, or other vehicles designed for use on public roads.

### **Farm Supply Store**

An establishment engaged primarily in the sale or rental of farm tools, small farming equipment, and farm supplies. Retail sales of animal feed, grain, hardware, lumber, tack, riding attire, animal care products, and the like may be an ancillary activity.

### **Federal Emergency Management Agency (FEMA)**

The agency of the federal government chiefly responsible for studying and mapping flood plains and developing guidelines limiting development therein.

### **Feed Mill**

A building with machinery and apparatus for grinding and/or bagging grain.

### **Fertilizer**

Any substance containing nitrogen or phosphorous which is used primarily for its plant food content.

### **Financially Responsible Person**

In regards to soil erosion and sedimentation control provisions, and party or entity who has financial or operation control over a land-disturbing activity and/or the landowner or party/entity in possession or control of the land who had directly or indirectly allowed a land-disturbing activity or had benefited from such activity.

### **Fixture**

The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

### **Flexible Development**

A subdivision in which greater flexibility and design creativity is encouraged and allowed to preserve agricultural and forestry lands, natural and cultural features, and rural community character that might otherwise be lost through conventional development approaches. At least one-third (33%) of the land within a Flexible Development subdivision must be set aside as open space which may be preserved through:

- a) An "estate lot" approach-option where all land is subdivided into lots four acres or greater in size, building lot area including setbacks are established on 50% of each lot, and the land area outside such area is preserved as open space provided that front and side yard setback areas shall not be counted toward meeting the minimum open space requirement except as specified by provisions of Section 8.13.4; or

- b) A “conservation-cluster” approach-option where lot sizes are reduced and the land saved through such reductions is preserved as open space on separate lots owned and maintained through a homeowners association, a non-profit land conservancy or unit of state or local government; or
- c) A “village” or modified cluster approach-option where dwelling units are clustered around a village green and supporting shops, and the village is surrounded by open space; or
- d) Some combination of the above.

### **Floating Zoning District; Floating Zone**

A zoning district that is defined in the text of the Ordinance but which is applied or mapped only upon the approval of a rezoning application/petition.

### **Flood and Flooding**

A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and the unusual and rapid accumulation of runoff of surface waters from any source.

### **Flood Insurance**

The insurance coverage provided under the National Flood Insurance Program (NFIP).

### **Flood Insurance Rate Map (FIRM)**

An official, adopted Orange County map, issued by FEMA, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the county are delineated. These areas are incorporated within the official Zoning Atlas for Orange County as the Special Flood Hazard Area Overlay District.

### **Flood Insurance Study (FIS)**

An examination, evaluation, and determination of flood hazard, corresponding water surface elevations (if appropriate), flood insurance risk zones, and other flood data in Orange County issued by FEMA. The FIS report contains corresponding flood profiles, as well as FIRMs.

### **Flood Lamp**

See Outdoor Lighting, Flood Lamp.

### **Floodlight**

See Outdoor Lighting, Floodlight.

### **Floodplain or Flood Prone Area**

Any land area susceptible to being inundated by water from any source and is interchangeable terms.

### **Floodplain Administrator**

The individual appointed to administer and enforce the floodplain management regulations.

### **Floodplain Development Permit**

A document required for any disturbance within a mapped special flood hazard area prior to the commencement of any development activity.

### **Floodplain Management**

The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

### **Floodplain Regulations**

This Ordinance, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power, which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

### **Open Burning Of Trees, Limbs, Stumps And Construction Debris Associated With The Permitted Activity**

The disposal of limbs, stumps and construction debris associated with the permitted activity by means of outdoor fires.

### **Open Space - (flexible development)**

"Primary Conservation-Open Space Areas" and "Secondary Conservation-Open Space Areas", as defined in Section 7.1312.4, which are preserved through conservation easements or other restrictions in a flexible development subdivision.

### **Open Space - (land use intensity)**

- A. Open space is the total horizontal area of uncovered open space plus half the total horizontal area of covered open space subject to limitations set forth below.
- B. Uncovered open space is total gross land area not covered by buildings, plus open exterior balconies and roof areas improved as recreation space.
- C. Covered open space is usable open space closed to the sky, but having two clear unobstructed open or partially open sides. Partially open sides is to be construed as 50% or more. Examples of covered space are covered balconies, covered portions of improved roof areas, or space under buildings supported on columns or posts or cantilevered. The square footage countable as covered open space shall not exceed the square footage of the open space sides.

### **Open Space Ratio**

The minimum square footage of open space required for each square foot of gross land area. This area includes parking and vehicular access areas and it can also include balconies, and roofs improved for recreation.

### **Outdoor Advertising Industry**

The organizations that provide outdoor displays or display space on a lease or rental basis.

### **Outdoor Lighting**

Installation of lighting equipment, whether attached to poles, building structures, the earth, or any other location to allow for the illumination of a building and exterior area(s) within the confines of a defined property line. Included are open air spaces on a property, which are under a roof or other cover and not fully enclosed such as a canopy, pavilion, drive-through bay, or parking deck.

### **Outdoor Lighting, Cutoff Fixture**

A fixture shielded or constructed in such a manner that no more than 2 ½% of the total light emitted by the fixture is projected above the horizontal plane of the fixture.

### **Outdoor Lighting, Direct Light**

Light emitted directly from the lamp, off of the reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

### **Outdoor Lighting, Fixture**

The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and/or a refractor or lens.

### **Outdoor Lighting, Flood Lamp**

A form of lighting designed to direct its output in a specific direction with a reflector formed from the glass envelope of the lamp itself. Such lamps are so designated by the manufacturers and are typically used in residential outdoor area lighting.

### **Outdoor Lighting, Floodlight**

A temporary lodging facility that is compatible to the primary land use of agriculture, forestry, open space, or otherwise rural residential activities. Rural guest establishments consist of three subcategories based on intensity and permit requirements, Bed and Breakfast, Bed and Breakfast Inn, and Country Inn, which are further defined below.

- A. **Bed and Breakfast:** A private, owner-occupied dwelling in which the frequency and volume of paying guests is incidental to the primary use of the building as a private residence. One to three guestrooms are made available to transient visitors. The establishment shall not contain restaurant facilities, but may provide food service for transient guests only. (Zoning Permit)
- B. **Bed and Breakfast Inn:** A business operated in a structure which is used primarily for providing overnight accommodations to the public, even though the owner or manager lives on the premises. The number of guestrooms may range from four to no more than eight. The establishment shall not contain restaurant facilities, but may provide food service for transient guests only. (Class B SUP)
- C. **Country Inn:** A business, which offers accommodations and dining in a predominately rural area. Overnight accommodations are available, and a full-service restaurant provides breakfast, lunch and dinner to guests and the general public. The number of guestrooms may range from four to no more than 24. The restaurant shall contain no more than 60 seats. (Class A SUP)

### **Rural Heritage Museum**

A facility which stores and exhibits objects of historical, agricultural, and/or cultural interest for the purpose of educating the public about the rural heritage of Orange County and surrounding areas.

### **Rural Industrial Activity Node**

Land focused on designated road intersections which serves as a nodal crossroads for the surrounding rural community and is an appropriate location for small-scale industrial uses which do not require urban type services.

### **Rural Neighborhood Activity Node**

Land focused on designated road intersections within a Rural or Agricultural Residential area that is appropriate for small-scale commercial uses.

### **Rural Residential Land**

Land in the rural areas of the County that is an appropriate location for low intensity and low density residential development which are not dependent on urban services.

### **Rural Special Event**

A temporary or seasonal commercial activity that occurs on a bona fide farm and which is expected to attract more than 20 people at any given time.

### **Salvage yard**

Property used for the storage, collection, and/or recycling of any type of equipment whatsoever, whether industrial or non-commercial, and including but not limited to vehicles, appliances and related machinery.

### **Saw Mill**

A facility where off-site logs or timber are sawn, planed or otherwise processed into lumber or other wood products; not including the processing of timber for use on the same parcel of property.

### **Semi-Cutoff Fixture**

An outdoor fixture shielded or constructed in such a manner that it emits no more than 5% of its light above the horizontal plane of the fixture, and no more than 20% of its light ten degrees below the horizontal plane of the fixture.

### **Septic, Off-Site**

An off-site system is a wastewater system as defined in GS 130A-334(15) where any components of the systems serving two or more facilities are located on property other than the building lot that is under common ownership or control. This approval does not apply to a wastewater system entirely

contained on multiple adjoining lots or tracts of land under common ownership or control which are considered a single system per GS 130A-334(15) and subject to permitting pursuant to 15A NCAC 18A .1938(j).

For the purposes of this ordinance, the following terms utilized in GS 130A-334(15) and subject to permitting pursuant to 15A NCAC 18A .1938(j):

- A. Building lot – the lot or parcel of land on which the design unit served by an off-site system is located
- B. Common area – property that is jointly owned and/or controlled by an Property Owners Association or a corporation for the use and benefit of multiple parties specifically for the purpose of wastewater system(s) components and access
- C. Contact person(s) – the person or agent responsible for representing his/her company (developer, engineer, installer/contractor, licensed soil scientist, system designer, etc.) in activities related to the offsite system
- D. "Design unit" means a discrete connection such as an individual dwelling unit, place of business, or place of public assembly on which wastewater design daily flow rates are based.
- E. Easement – a property interest that allows the holder of the easement to use the property that he or she does not own or possess. The easement is a legally binding written instrument of title (a deed) which contains all applicable provisions of 15A NCAC 18A .1938(j), and includes the following elements:
1. a competent grantor,
  2. an existing grantee capable of taking title,
  3. a granting or conveyance clause,
  4. a legal description of the property,
  5. the requisite execution and "seal" of the grantor,
  6. satisfactory acknowledgement by a notary or authorized officer, and
  7. delivery to and acceptance by the grantee.

Instrument(s) shall be recorded in the office of the Register of Deeds (County Registry) where the land lies. If the land is located in more than one county, then the instrument shall be recorded in each county where any portion of the land lies to be effective as to the land in that county.

- F. Encroachment agreement – a legal agreement for one or more supply lines to cross an existing easement or right-of-way owned or controlled by another utility or governmental entity (e.g., NCDOT, power company, gas company, railroad, etc.). The instrument shall contain the following elements:
1. name of the entity that owns or controls the easement or right-of-way,
  2. name of the party requesting the encroachment,
  3. description of the requested encroachment,
  4. an identifiable description of the easement or right-of-way being encroached upon, including necessary plans or drawings,
  5. specific conditions of the agreement per grantee's encroachment policies, and
  6. agreement date and signatures of authorized parties (attested, notarized, and/or witnessed per grantee's encroachment policies).

Instrument(s) shall be recorded in the office of the Register of Deeds (County Registry) where the land lies. If the land is located in more than one county, then the instrument shall be recorded in each county where any portion of the land lies to be effective as to the land in that county.

- G. "Facility" means one or more design units located on:
1. a single lot or tract of land; or

2. multiple lots or tracts of land served by a common wastewater system.
- H. Property Owners Association (POA) – a perpetual and non-profit entity established through Articles of Incorporation filed with the NC Secretary of State's Office in accordance with the provision of NCGS 55A, that owns or jointly controls the common areas of a development.
- I. Alternating valve – a manual or automatic device that diverts flow of effluent from one dispersal field to another
- J. Off-site System Agreement - an agreement executed between the developer and the Property Owners Association (POA), which addresses ownership, transfer of ownership, responsibility for and funding of operation, maintenance and repairs. This agreement is required when any components of an off-site system, including associated easement, encroachment or drainage feature, is located on jointly owned or controlled common areas of a development.
- K. Management Entity (ME) - person, as defined by 15A NCAC 18A .1935(35), responsible for system management pursuant to this Approval and Rule 15A NCAC 18A .1961.
- L. Operation & Maintenance (O&M) Agreement(s) – agreement(s) executed among each owner of an off-site system and the POA and between the POA and the ME (or MEs), as applicable. The agreement specifies responsibilities of all parties, including frequency of visits, duties to be performed, reporting requirements, emergency response requirements, and financial responsibilities for specified operation, maintenance and repairs. One ME is required to operate and maintain all system components located in easements or common areas and all associated subsequent components. This agreement does not apply to components that are located within the building lot and are outside of any easements on the building lot.
- M. Subordination statement – an appendix or attachment that is recorded with each easement that subordinates the lien created by the Deed of Trust to this easement to prevent the lien holder from extinguishing the easement.
- N. Supply line – a watertight pipe used to convey effluent from the septic tank or pump tank to the distribution device or dispersal field
- O. Supply line network – two or more supply lines located wholly or in part within an easement or encroachment in a single phase or section.

### **Septic System, Alternative**

Any approved ground absorption sewage treatment and disposal system other than an approved privy or an approved septic tank system.

### **Septic Tank System**

A subsurface sanitary sewage system consisting of a septic tank and a subsurface disposal field.

### **Setback**

Yard space other than a court unoccupied and unobstructed by any structure or portion of a structure from thirty inches above the general ground level of the graded lot upward, except as specifically provided in these regulations; provided, however, that fences and walls may be permitted in any setback subject to height limitations established generally or for the district and, further provided that poles, posts and other customary accessories, ornaments, furniture and landscaping shall be permitted in any setback if they do not constitute substantial impediments to free flow of light and air across the setback or violate provisions of these or other regulations regarding visibility.

### Study Area, Traffic Impact

The area in which a traffic impact analysis will be made and extending approximately one half mile along roadways adjacent to a development project and in both directions from all access points or to a major intersection along these roadways.

### Subdivider

Any person or persons, firm or corporation subdividing land within the jurisdiction of this Ordinance.

### Subdivision

All divisions of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing streets.

### Subdivision, Exempt

- a) The combination or recombination of portions of previously subdivided and recorded lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the County, including private road justification standards, as detailed within this Ordinance.
- b) The division of land into parcels greater than 10 acres if no street right-of-way dedication is involved.
- c) The public acquisition by purchase of strips of land for widening or opening streets.
- d) The division of a tract in single ownership of the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of the County as shown by its subdivision regulations.

### Subdivision, Major

Any division of land that is not classified as an Exempt or Minor subdivision.

### Subdivision, Minor

A division of a tract of land that does not:

- a) Create more than five lots for conventional design options, or more than 12 lots for flexible development, including the residual acreage, from any one tract of land in any 24 month period;
- b) Dedicate or improve any new public street other than widening an existing public street;
- c) Extend public water and/or sanitary sewerage systems other than laterals to serve individual lots;
- d) Necessitate the installation of drainage improvements which would require easements through one or more lots to serve other lots; and
- e) At the option of the applicant, involve vesting of the subdivision for a period greater than one year.

### Substantial damage

Damage of any origin sustained by a structure during any one year period whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. See definition of "substantial improvement." Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

### Substantial improvement

Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one year period whereby the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures, which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either any correction of existing violations of State or Orange County health, sanitary, or safety code specifications which have been identified by the Orange County code enforcement official and which are the minimum necessary to assure safe living conditions, or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

**ORANGE COUNTY  
PLANNING BOARD ORDINANCE REVIEW COMMITTEE  
ACTION AGENDA ITEM ABSTRACT  
Meeting Date: September 7, 2016**

**Action Agenda  
Item No. 4**

**SUBJECT:** Comprehensive Plan and Unified Development Ordinance (UDO) Text Amendments – Creation of a Rural Master Plan Development Conditional Zoning District (RMPD-CZ)

---

**DEPARTMENT:** Planning and Inspections

---

**ATTACHMENT(S):**

**INFORMATION CONTACT:**

- |  |  |
|--|--|
| <ol style="list-style-type: none"> <li>1. Comprehensive Plan and Unified Development Ordinance (UDO) Amendment Outline Form</li> <li>2. Proposed Amendments</li> </ol> | <p>Michael D. Harvey, Planner III (919) 245-2597<br/>Craig Benedict, Director (919) 245-2575</p> |
|--|--|
- 

**PURPOSE:** To review and comment upon proposed government-initiated amendments to the text of the Comprehensive Plan and Unified Development Ordinance (UDO) regarding the establishment of a new Conditional Zoning district entitled Rural Master Plan Development (RMPD-CZ).

**BACKGROUND:** In response to a petition submitted by Commissioner Pelissier, staff conducted a work session with the BOCC on February 18, 2016 to review current subdivision regulations and processes and discuss opportunities for allowing for more flexibility with respect to residential development in rural areas.

During this work session, staff recommended the creation of a rural master planned district, modeled on the existing Master Plan Development Conditional Zoning (MPD-CZ) district. The district is intended to provide a mechanism whereby residential developments in the rural areas of the county could develop with greater flexibility with respect to minimum lot sizes and cluster options while adhering to established density limits in accordance with Section 4.2.4 of the UDO.

As envisioned the new district would allow non-residential development only for property located within Rural Community or Neighborhood Activity Nodes consistent with the adopted Comprehensive Plan. Attachment 1 contains additional information and analysis regarding this amendment. Proposed text amendment language can be found in Attachment 2 within a “track changes” format.

**FINANCIAL IMPACT:** Consideration and approval will not create the need for additional funding for the provision of County services. Existing staff, included in the Departmental staffing budget, will accomplish the work required to process this amendment.

**RECOMMENDATION(S):** Planning staff recommends the Ordinance Review Committee review and comment upon the proposed amendments to the Comprehensive Plan and UDO.

# COMPREHENSIVE PLAN / FUTURE LAND USE MAP AND UNIFIED DEVELOPMENT ORDINANCE (UDO) AMENDMENT OUTLINE

UDO / Zoning-2016-07

Development of a Rural Master Plan Development Conditional Zoning (RMPD-CZ) district

## A. AMENDMENT TYPE

### Map Amendments

- Comprehensive Plan – Future Land Use Map:  
From:  
To:
- Zoning Map:  
From:  
To:
- Other:

### Text Amendments

- Comprehensive Plan Text:

Section(s): Amend Appendix F Land Use and Zoning Matrix to include references to the RMPD-CZ district to being allowed within the Agricultural Residential (AR) and Rural Residential (R-1) general use zoning districts.

- UDO Text:

- UDO General Text Changes
- UDO Development Standards
- UDO Development Approval Processes

Section(s): Section(s)

1. 2.9.2 *Conditional Zoning Districts*,
2. Article 3 *Base Zoning Districts*,
3. 3.8 *Conditional Districts*,
4. 4.2.9 *Water Supply/Sewage Disposal Facilities*, and
5. 6.2 *Lot and Building Standards*.
6. 6.7 *Additional Standards for MPD-CZ and RMPD-CZ*
7. Section 6.12 *Signs*

- Other:

## B. RATIONALE

### 1. Purpose/Mission

In accordance with the provisions of Section 2.8 *Zoning Atlas and Unified Development Ordinance Amendments* of the UDO, the Planning Director is proposing to initiate text amendments to create a new conditional zoning district, specifically the Rural Master Plan Development Conditional Zoning (RMPD-CZ) district.

### 2. Analysis

As required under Section 2.8.5 of the UDO, the Planning Director is required to: *'cause an analysis to be made of the application and, based upon that analysis, prepare a recommendation for consideration by the Planning Board and the Board of County Commissioners'*.

In response to a petition submitted by Commissioner Pelissier, staff conducted a work session with the BOCC on February 18, 2016 to:

- a. Review the County's subdivision development and review processes,
- b. Discuss minimum lot size and density limitations/requirements, and
- c. Identify opportunities and constraints associated with the clustering of subdivision lots.

Agenda materials from this meeting can be viewed

at: [http://www.orangecountync.gov/document\\_center/BOCCAgendaMinutes/160218.pdf](http://www.orangecountync.gov/document_center/BOCCAgendaMinutes/160218.pdf).

During this work session, staff recommended the creation of a rural master planned district, modeled on the existing Master Plan Development Conditional Zoning (MPD-CZ) district.

As envisioned this new district would provide a mechanism where residential developments in the rural areas of the County could develop a project with greater flexibility with respect to minimum lot sizes and cluster options. The clustering of lots would be directly proportional to the percentage of the tract left in dedicated open space.

Allowable density for such a district would still be based on the Watershed Protection Overlay District where the parcel subject to development is located in accordance with Section 4.2.4 of the UDO.

As with all Conditional Zoning districts the project would involve the negotiation of design elements between the BOCC and applicant to ensure the viability of the project. Requests to develop this new district would be reviewed as a rezoning request (i.e. legislative review only) and acted upon by the BOCC in accordance with Section 2.9.2 of the UDO.

### 3. Comprehensive Plan Linkage (i.e. Principles, Goals and Objectives)

**Housing Goal 1:** A wide-range of types and densities of quality housing affordable to all in all parts of the County.

**Housing Goal 4:** Development ordinances and incentives that promote inclusionary practices and housing options for all income levels.

**Land Use Goal 4:** Land development regulations, guidelines, techniques and/or incentives that promote the integrated achievement of all Comprehensive Plan goals.

**Land Use Goal 6:** A land use planning process that is transparent, fair, open, efficient, and responsive.

#### 4. New Statutes and Rules

N/A

### i. PROCESS

#### 1. TIMEFRAME/MILESTONES/DEADLINES

- a. BOCC Authorization to Proceed

May 5, 2016

- b. Quarterly Public Hearing

November 21, 2016

- c. BOCC Updates/Checkpoints

May 5, 2016 – Approval of UDO Amendment Outline Form

August 3, 2016 – Planning Board Ordinance Review Committee (ORC) meeting (BOCC receives agenda materials)

October 5, 2016 – Planning Board meeting (BOCC receives agenda materials)

- d. Other

N/A

#### 2. PUBLIC INVOLVEMENT PROGRAM

**Mission/Scope:** Public Hearing process consistent with NC State Statutes and Orange County ordinance requirements

- a. Planning Board Review:

August 3, 2016 – Ordinance Review Committee (ORC)

October 5, 2016 – Recommendation

- b. Advisory Boards:

N/A

- c. Local Government Review:  
Staff shall transmit the proposed amendment(s) to the Towns of Chapel Hill, Carrboro, and Hillsborough for JPA and courtesy review.

- d. Notice Requirements

Legal advertisement for the public hearing shall be in accordance with the provisions of the UDO.

- e. Outreach:

General Public:

Small Area Plan Workgroup:

Other:

**3. FISCAL IMPACT**

Consideration and approval will not create the need for additional funding for the provision of County services. Costs for the required legal advertisement will be paid from departmental funds budgeted for this purpose. Existing Planning staff included in the Departmental staffing budget will accomplish the work required to process this amendment.

**ii. AMENDMENT IMPLICATIONS**

The amendment will create a new conditional zoning allowing for residential master planned projects in the rural areas of the County.

**iii. SPECIFIC AMENDMENT LANGUAGE**

Please refer to Attachment 2.

**Primary Staff Contact:**

Michael D. Harvey

Planning

(919) 245-2597

mharvey@orangecountync.gov



**(I) Zoning Atlas Designation**

Following approval of a CUD application/permit by the Board of County Commissioners, the property shall be identified on the zoning atlas by the appropriate parallel CUD designation. This designation is the general zoning district designation plus the letters "CU".

**(J) Timeline for Development of Approved Uses**

- (1) Construction of the approved project must begin within 12 months of the approval of the permit. If no construction has started within the stated time frame the permit becomes null and of no effect.
- (2) The property owner may request only one 6-month extension from the Board of County Commissioners upon the favorable recommendation of the Planning Board if the request is received before the permit expires.
- (3) The application for an extension request shall be submitted a minimum of six months prior to the expiration of the permit.

**(K) Alterations to an Approved CUD**

- (1) Changes to approved plans and conditions of development shall be treated as changes to the zoning atlas and shall be processed as an amendment to such as contained in Section 2.8.
- (2) The Planning Director may approve minor changes without going through the amendment process. The Planning Director, at his/her discretion, may elect not to allow any proposal as a minor change and will forward the detailed application for changes to the Planning Board and Board of County Commissioners for consideration in accordance with the procedures outlined herein.
- (3) A minor change is one that will not:
  - (a) Alter the basic relationship of the proposed development to adjacent property,
  - (b) Alter the approved land uses,
  - (c) Increase the density or intensity of development, and/or
  - (d) Decrease the off-street parking ratio or reduce the buffer yards provided at the boundary of the site.

**2.9.2 Conditional Zoning District (CZD)****(A) Generally**

Only those uses listed on the Table of Permitted Uses in Section 5.2 for a specific Conditional Zoning District and detailed in Section 3.8 of this Ordinance shall be developed.

**(B) Applications**

Applications to rezone property to a CZD shall be submitted to the Planning Director and shall be processed in accordance with the procedure(s) for:

- (1) Zoning Atlas amendment (Section 2.8),
- (2) Site plans (Section 2.5) for CZDs that require a site plan, and
- (3) The provisions of this Section.

**(C) Submittal Requirements**

- (1) In addition to the CZD application form, an applicant shall also submit the following information:

- (a) A site plan prepared in accordance with the provisions of Section 2.5 of this Ordinance, except for MPD-CZ and RMPD-CZ<sup>1</sup> applications (see (C)(2) below).
- (b) A detailed description of the proposed use of property including an outline of the proposed development.
- (c) A detailed traffic survey, regardless of the estimated number of trips per day, prepared in accordance with all applicable North Carolina Department of Transportation (NC DOT) requirements or standards as well as Section 6.17 of this Ordinance.
- (d) The appropriate Environmental Document prepared in accordance with Section 6.16.
- (e) A landscape plan showing the location of on-site significant trees; proposed screening, buffers, and landscaping; and any proposed treatment of any existing natural features.
- (f) A summary of utility services, including processing of wastewater.
- (g) A schedule of construction of all elements of the proposal.
- (h) Any other information identified during the pre-application conference deemed essential to demonstrate the project's compliance with these regulations.

(2) In lieu of the requirements in (1)(a) above, an application for a Master Plan Development (MPD) and Rural Master Plan Development (RMPD) CZD shall include the requirements in Section 6.7. The requirements of (1)(b) through (1)(h) above are applicable for MPD-CZ and RMPD-CZ<sup>2</sup> applications.

(3) 26 copies of the application package required in (1) and (2) above shall be submitted by the applicant.

(4) The Planning Board and/or Board of County Commissioners may request additional information in order to evaluate and properly process the application for a CZD.

**(D) Neighborhood Information Meeting**

(1) Before a Public Hearing may be held on an accepted application for a CZD, the applicant is required to schedule, with the assistance of the Planning Department, a minimum of one neighborhood information meeting. The purpose of this meeting is to obtain surrounding property owner input and comments on the proposed development project.

(2) The applicant shall obtain property owner mailing address information from the Orange County Planning Department and shall mail notices of the meeting date and time via first class mail to each property owner within one thousand feet of the property for which a CZD has been requested.

(3) The notices shall be mailed a minimum of 14 days prior to the date of the proposed Neighborhood Information Meeting.

(4) The applicant shall post a sign on the property advertising the date, place, and time of the meeting a minimum of 10 days prior to the date of the meeting.

<sup>1</sup> As detailed in the UDO Amendment Outline Form, approved on May 5, 2016, the intent of this district is to provide a mechanism where residential developments in the rural areas of the County could develop greater flexibility with respect to minimum lot sizes and cluster options.

<sup>2</sup> Amendment designed to identify the new Conditional Zoning district.

- (5) The Neighborhood Information Meeting shall be held a minimum of 14 days prior to the date of the Public Hearing where the application is scheduled for review and public comment.

**(E) Review and Evaluation of Application**

The review, processing, and evaluation of a CZD application is a legislative process subject to judicial review using the same procedures and standards of review that apply to general use district zoning decisions.

**(F) Approval and Conditions**

- (1) The Board of County Commissioners shall take action on the application to rezone the property in accordance with the procedures outlined within Section 2.8.
- (2) The applicant or the County may recommend that reasonable and appropriate conditions be attached to the approval of the application
- (3) Conditions and site-specific standards shall be limited to those that address the conformance of the development to County ordinances, the adopted Comprehensive Plan, or any other relevant plans that address the impacts reasonably expected to be generated by the proposed development. Any such conditions may address:
- (a) The compatibility of the proposed development with surrounding property,
  - (b) Proposed support facilities (i.e. roadways and access points, parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, storm water drainage, the provision of open space, etc), and/or
  - (c) All other matters the County may find appropriate or the petitioner may propose.
- (4) Conditions of approval may include dedication to the County or State, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development.
- (5) The applicant shall have a reasonable opportunity to consider and respond to any requirements/conditions requested by the County prior to final action by the Board of County Commissioners on the disposition of the application. The applicant shall agree in writing to any conditions prior to a final decision on the application.

**(G) Effect of Approval**

- (1) Approval of a CZD is binding on the property and the development and use of the subject property shall be governed by the Ordinance requirements applicable to the specific CZD district and all approved conditions.
- (2) The applicant shall comply with all requirements established in the CZD Ordinance. Only those uses and structures included in the CZD Ordinance and approved site plan shall be allowed on the subject property.

**(H) Zoning Atlas Designation**

Following approval of the CZD district by the Board of County Commissioners, the subject property shall be identified on the Zoning Atlas by the appropriate district designation.

**(I) Alterations to an Approved CZD**

- (1) Except as provided in Section 6.7.2 for MPD-CZ and RMPD-CZ projects, changes to approved plans and conditions of development shall be treated as changes to the zoning atlas and shall be processed as an amendment to such as contained in this Article.
- (2) The Planning Director may approve minor changes without going through the amendment process. The Planning Director, at his/her discretion, may elect not to allow any proposal as a minor change and will forward the detailed application for changes to the Planning Board and Board of County Commissioners for consideration in accordance with the procedures outlined herein.
- (3) A minor change is one that will not:
  - (a) Alter the basic relationship of the proposed development to adjacent property,
  - (b) Alter the approved land uses,
  - (c) Increase the density or intensity of development, and/or
  - (d) Decrease the off-street parking ratio or reduce the buffer yards provided at the boundary of the site.

### 2.9.3 Public Hearing and Notification Requirements – CUD and CZD

The requirement for a public hearing shall follow the procedures for a Zoning Atlas Amendment in Section 2.8.6. Notice of the public hearing shall follow the procedures in Section 2.8.7.

## SECTION 2.10: VARIANCES

### 2.10.1 Purpose

The procedures of this section authorize the Board of Adjustment to modify or vary regulations of this Ordinance when strict compliance with the regulation or standard would result in unnecessary hardships upon the subject property.

### 2.10.2 Application Requirements

- (A) Applications for a Variance shall be submitted on forms provided by the Planning Department in accordance with Section 2.2 of this Ordinance. Ten copies of the application and supporting documentation shall be submitted.
- (B) Applications shall include:
  - (1) The section reference, and copy of the existing regulatory language, that is the subject of the application,
  - (2) A description of the specific modification sought by the applicant. For example, if the request is for a modification of a corner lot setback requirement, the applicant shall provide the exact reduction of the established corner lot setback requested as part of the application,
  - (3) A plot plan, site plan, or other similar document(s) denoting the physical impact of the proposed request on the parcel,
  - (4) A narrative outlining the answers to the five required findings detailed within Section 2.10.3 of the Ordinance justifying the issuance of the variance, and
  - (5) Copies of any additional information deemed essential by the applicant justifying the approval of the request.

## SECTION 3.8: CONDITIONAL DISTRICTS

### 3.8.1 Generally

This Ordinance contains regulations that establish zoning districts and assign land uses to one or more of these districts. The Ordinance also provides standards for development that regulate lot size, yards, parking, landscaping, open space management, and other aspects of land use planning.

However, there are certain circumstances when:

- (A) A general zoning district designation would not be appropriate for a certain property, but a specific use permitted within the district would be consistent with the objectives of this Ordinance and/or the adopted Comprehensive Plan,
- (B) A planning study, adopted by the Board of County Commissioners, indicates there may be opportunities to allow for specific classifications of development within a specific geographic area of the county that is not located within appropriate Land Use Categories to allow for a general use rezoning to occur,
- (C) Certain uses, groups of uses, or types of development that, because of their nature or scale, have particular impacts on both the immediate area and the community as a whole and cannot be predetermined or controlled by general use district standards, or
- (D) A property owner proposes the development, adoption, and imposition of unified development standards associated with the approval of a master development plan for a specific parcel of property that may or may not involve proposed modification of existing development regulations.

In these circumstances, Conditional Districts may be utilized.

### 3.8.2 Purpose and Intent

- (A) Conditional Districts may be established for specialized purposes where tracts suitable in location, area and character for the use and structures proposed are to be planned and developed on a unified basis.
- (B) The suitability of tracts for the development proposed shall be determined primarily by reference to the adopted Comprehensive Plan, any relevant adopted small area plan, and the standards outlined in this Ordinance, but due consideration shall be given to the existing and prospective character of surrounding development.
- (C) Conditional Districts offer advantages to both the general public and property owners.
  - (1) **Benefits to the general public include:**
    - (a) A more efficient and effective use of land,
    - (b) A more efficient use of energy,
    - (c) The reduction of the costs of continuing maintenance responsibilities,
    - (d) The master planning of infrastructure development within the region, and
    - (e) A higher level of amenities in all types of development.
  - (2) **Benefits to property owners include:**
    - (a) Greater flexibility in the development of their land,
    - (b) The opportunity to utilize new and ingenious development techniques, and
    - (c) A more prudent use of time, money, effort, and other resources.

- (D) A rezoning request to a Conditional District is a voluntary procedure that is intended for firm development proposals.

### 3.8.3 Districts Established

#### (A) Conditional Zoning Districts

- (1) Conditional Zoning (CZ) Districts are floating zoning districts, permitted within most land use designations allowing for the development of specific land uses, in accordance with established standards.
- (2) A CZ requires the approval of a rezoning by the Board of County Commissioners, approval of a site plan or Master Plan, and may include agreed-upon conditions of development.
- (3) The following CZ districts are hereby established:
  - (a) Agricultural Support Enterprises (ASE-CZ)
  - (b) Mobile Home Park (MHP-CZ)
  - (c) Master Plan Development (MPD-CZ)
  - (d) Rural Master Plan Development (RMPD-CZ)<sup>3</sup>
  - (e) NC Highway 57 Speedway Area Rural Economic Development Area (REDA-CZ-1)
- (4) Land uses permitted within CZ districts shall be those uses detailed within Section 5.2 of this Ordinance.
- (5) Development standards for each district are located in Article 6 of this Ordinance.

#### (B) Conditional Use Districts

- (1) Conditional Use Districts allow for the development of a specific land use, or land uses, listed on the Table of Permitted Uses in Section 5.2 of this Ordinance, even if such use is not listed as a permitted use or special use under the current zoning designation of the subject property.
- (2) Conditional Use Districts shall conform to all applicable development regulations, including uses, for the corresponding general use zoning district, as well as any specific use standards and development standards established in Articles 5 and 6 of this Ordinance.
- (3) A Conditional Use District requires the approval of a rezoning by the Board of County Commissioners, approval of a site plan, the issuance of a Class A Special Use Permit, and may include agreed-upon conditions of development.

### ~~3.8.4 Where Permitted~~

- ~~(A) Conditional Districts are permitted in any Land Use classification and shall be located consistent with the existing general development pattern and the objectives of the adopted Comprehensive Plan and any adopted small area plan(s).~~
- ~~(B) Conditional Districts are permitted within areas subject to the Joint Planning Agreement (JPA) between Orange County the Towns of Carrboro and Chapel Hill, subject to the terms and standards of the JPA.~~
- ~~(C) Conditional Districts are permitted within the University Lake, Cane Creek, and Upper Eno Protected and Critical Watershed Overlay Districts.~~

<sup>3</sup> Amendment identifying the new district renumbering the section as appropriate.

<h1 style="margin: 0;">RMPD-CZ<sup>4</sup></h1> <h2 style="margin: 0;">RURAL MASTER PLAN DEVELOPMENT</h2>	<b><u>DIMENSIONAL AND RATIO STANDARDS</u></b>	
	<u>Tract size, min. (acres)</u>	<u>20<sup>5</sup></u>
	<u>Tract Front Setback from ROW, min. (feet)</u>	<u>No requirement [1]</u>
<b><u>PURPOSE</u></b>		
<p><u>The purpose of the Rural Master Plan Development Conditional Zoning (MPD-CZ) District is to provide for unified large scale residential developments in the rural areas of the county designed to allow for the creative design and layout, and observance of environmental protections, through the approval of a general concept Master Plan the permits defined flexibility to accommodate land use adjustments in response to evolving housing needs and trends.</u></p> <p><u>In certain instances non-residential activities may be allowed consistent with the development standards contained herein.<sup>6</sup></u></p>	<u>Tract Side Setback, min. (feet)</u>	<u>No requirement [1]</u>
<b><u>APPLICABILITY</u></b>		
<p><u>The district shall be located in such a manner as to be compatible with the character of existing development of surrounding properties, thus insuring the continued conservation of building values and encouraging the most appropriate use of land in the county. Therefore, when evaluating an application for this district, emphasis shall be given to the location of the proposed development, the relationship of the site and site development plan to adjoining property, and the development itself.</u></p>	<u>Tract Rear Setback, min. (feet)</u>	<u>No requirement [1]</u>
<p><b><u>DIMENSIONAL STANDARDS NOTES:</u></b>  <u>[1] The RMPD-CZ district is intended to allow for flexibility in dimensional standards. The overall development will be evaluated to ensure compatibility with surrounding properties and with planning objectives. Specific site development standards can be approved with the Master Plan.</u></p>	<u>Height, max. (feet)</u>	<u>No requirement [1]</u>
	<u>Tract Floor Area Ratio, max</u>	<u>No requirement [1]</u>
	<u>Required Open Space Ratio, min.</u>	<u>No requirement [1]</u>
	<u>Required Livability Space Ratio, min.</u>	<u>No requirement [1]</u>
	<u>Required Recreation Space Ratio, min.</u>	<u>No requirement [1]</u>
	<u>Required Pedestrian / Landscape Ratio, min.</u>	<u>No requirement [1]</u>
<b><u>RMPD-CZ DISTRICT SPECIFIC DEVELOPMENT STANDARDS</u></b>		
<p><u>1. The RMPD-CZ district shall be allowed only within the Agricultural Residential and Rural Residential Land Use Classifications, as defined in the Orange County Comprehensive Plan.<sup>7</sup></u></p>		

<sup>4</sup> This new section outlines the intent, purpose, and development opportunities/constraints for the district.

<sup>5</sup> Staff is recommending 20 acres as a minimum parcel size to address concerns over haphazard 'high' intensity development in the rural areas of the county.

<sup>6</sup> The intent is to allow non-residential development only within areas of the County (i.e. transition area or nodes) where such activity would currently be permitted. Please refer to number 3 of the development standards section for additional clarification on the allowance.

2. Uses shall be restricted to those indicated for the RMPD-CZ District in Section 5.2.
3. Non-residential land uses shall be allowed for projects located only within Rural Community or Rural Neighborhood Nodes as defined within the Comprehensive Plan and in accordance with Watershed Protection Overlay District standards as contained within Section 4.2.3 of the Ordinance. Non-residential land uses within a RMPD-CZ district shall not exceed 20% of the total acreage of the project.<sup>8</sup>
4. The residential density permitted on a given parcel is based on the Watershed Protection Overlay District in which the property is located. Refer to Section 4.2.4 for a breakdown of the allowable density (i.e., the number of individual dwellings that can be developed on a parcel of property).<sup>9</sup>
5. Allowable impervious surface area is based on the Watershed Protection Overlay District in which the property is located. Refer to Sections 4.2.5 and 4.2.6 for a breakdown of the allowable impervious surface area.
6. Development within the zoning district shall be subject to all applicable use standards detailed in Article 5 and all applicable development standards detailed in Article 6 of this Ordinance or provide creative alternatives that meet the intent and spirit of the regulations.
7. Water and sewer services shall only be allowed consistent with the Water and Sewer Management, Planning, and Boundary Agreement (WASMPBA).<sup>10</sup>
8. No project having a significant negative impact on existing roadways, traffic patterns or surface drainage patterns shall be permitted, unless an appropriate and viable solution is approved to mitigate these conditions.

<sup>7</sup> Development within other land use categories could conceivably follow the Master Plan Development (MPD-CZ) guidelines. Staff specifically left out the Rural Buffer land use category due to development limitations within same (i.e. lots cannot be smaller than 1 acre in size based on existing language within the Joint Planning Land Use Plan and Agreement).

<sup>8</sup> Staff is recommending a cap on the total allowed acreage that can be devoted to non-residential activities as part of a RMPD-CZ project. We are also recommending non-residential activities be limited to projects located within Rural Community and/or Rural Neighborhood zoned consistent with the provisions of the adopted Comprehensive Plan.

<sup>9</sup> Density limits shall still be required to adhere to established limits as detailed in Section 4.2.

<sup>10</sup> For the most part, RMPD-CZ districts will have to rely of well/septic system(s) for support.

**4.2.9 Water Supply / Sewage Disposal Facilities**

TABLE 4.2.9: WATER SUPPLY/SEWAGE DISPOSAL FACILITIES	
DISTRICT	WATER SUPPLY/SEWAGE DISPOSAL
UNIV-CA UNIV-PW	Water supply and sewage treatment systems shall be limited to individual wells and on-site septic tanks systems or individual on-site alternative disposal systems.
All Watershed Overlay Districts	No new treatment system will be permitted where effluent disposal occurs on a separate lot from the source of wastewater generation; provided, however, off-site systems shall be permitted in all Watershed Overlay Districts except the University Lake Protected Watershed (UNIV-PW) and Critical Area (UNIV-CA) when located in a Flexible Development subdivision approved in accordance with Section 7.13 of this Ordinance <u>or when located within a Master Plan Development (MPD-CZ) or Rural Master Plan Development (RMPD-CZ) Conditional Zoning district.</u> <sup>11</sup>
UNIV-CA	New septic tanks and their nitrification fields shall be located outside of any stream buffers, or 300 feet from a reservoir or perennial or intermittent stream as shown on the USGS Quadrangle maps, whichever is further
CANE-CA U-ENO-CA	New septic tanks, pump tanks and their appurtenances shall be located outside of any stream buffers and at least 100 feet from a perennial or intermittent stream as shown on the USGS Quadrangle maps, and at least 150 feet from a reservoir. New nitrification fields shall be located outside of any stream buffers and at least 100 feet from a perennial or intermittent stream as shown on the USGS Quadrangle maps, and at least 300 feet from a reservoir.
CANE-PW CANE-CA U-ENO-CA	Water supply and sewage treatment systems shall be limited to individual wells and septic tanks or individual on-site alternative disposal systems; provided however, off-site systems shall be permitted when located in a Flexible Development subdivision approved in accordance with Section 7.13 of this Ordinance.
UNIV-PW CANE-PW U-ENO-PW HYCO-PW LITTLE-PW BACK-PW HAW-PW JORDAN-PW L-ENO-PW FLAT-PW	New septic tanks and their nitrification fields shall be located outside of any stream buffers and at least 100 feet from a perennial or intermittent stream as shown on the USGS Quadrangle maps.

**SECTION 4.3: SPECIAL FLOOD HAZARD AREA (SFHA)**

**4.3.1 Intent**

The intent of this overlay district is to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- (A) Restrict or prohibit uses, which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion, flood heights or velocities;
- (B) Require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
- (C) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

<sup>11</sup> Language being inserted to provide flexibility to a developer when working on either 'master plan' process. We are including references to the MPD-CZ process as well.

5.2.3 Table of Permitted Uses – Conditional Zoning Districts

TABLE OF PERMITTED USES – CONDITIONAL ZONING DISTRICTS					
* = PERMITTED USE					
USE TYPE	CONDITIONAL ZONING DISTRICTS				
	ASE-CZ	MPD-CZ	MHP-CZ	REDA-CZ-1	RMPD-CZ <sup>12</sup>
NOTE: Applications for Conditional Zoning Districts must list specific uses for consideration/approval					
^: Use shall not be approved on parcels located in the Rural Buffer land use classification, as designated by the adopted Comprehensive Plan.					
<b>AGRICULTURAL USES</b>					
Agricultural Processing Facility ^	*	*			
Agricultural Processing Facility, Community	*				
Agricultural Services Uses	*	*			
Cold Storage Facility	*	*			
Community Farmers' Market	*	*			
Composting Operation, no grinding	*				
Composting Operation, with grinding ^	*				
Cooperative Farm Stand	*	*			
Equestrian Center	*				
Farm Equipment Rental, Sales and Service	*				
Farm Supply Store	*	*			
Feed Mill	*	*			
Greenhouses with On Premises Sales	*	*			
Meat Processing Facility, Community	*				
Meat Processing Facility, Regional ^	*				
Non-Farm Use of Farm Equipment	*				
Stables, Commercial	*	*			
Stockyards / Livestock Markets ^	*				
<b>CHILD CARE &amp; EDUCATIONAL FACILITIES</b>					

<sup>12</sup> Modification to the table of permitted uses to accommodate the new district.

TABLE OF PERMITTED USES – CONDITIONAL ZONING DISTRICTS					
* = PERMITTED USE					
USE TYPE	CONDITIONAL ZONING DISTRICTS				
	ASE-CZ	MPD-CZ	MHP-CZ	REDA-CZ-1	RMPD-CZ <sup>12</sup>
NOTE: Applications for Conditional Zoning Districts must list specific uses for consideration/approval ^: Use shall not be approved on parcels located in the Rural Buffer land use classification, as designated by the adopted Comprehensive Plan.					
Center in a Residence for 3 to 12 Children					* —
Child Care Facilities		*			
Libraries		*		*	
Non-Profit Educational Cooperative					
Schools: Dance, Art & Music		*			
Schools: Elementary, Middle & Secondary		*			* —
Schools: Vocational		*			
Universities, Colleges & Institutes		*			
<b>COMMERCIAL USES</b>					
Banks & Financial Institutions		*			* —
Beauty & Barber Shops		*		*	
Construction (Sector 23)		*			
Contractors, Building & Trade		*		*	
Country Store	*	*			* —
Finance & Insurance (Sector 52)		*			
Funeral Homes		*			
Garden Center with On Premises Sales	*	*			
Hotels & Motels		*			
Insurance Carriers & Agents		*			
Junkyards					
Kennels, Class I	*				
Kennels, Class II	*				
Laundry & Dry Cleaning Services		*			

TABLE OF PERMITTED USES – CONDITIONAL ZONING DISTRICTS					
* = PERMITTED USE					
USE TYPE	CONDITIONAL ZONING DISTRICTS				
	ASE-CZ	MPD-CZ	MHP-CZ	REDA-CZ-1	RMPD-CZ <sup>12</sup>
NOTE: Applications for Conditional Zoning Districts must list specific uses for consideration/approval ^: Use shall not be approved on parcels located in the Rural Buffer land use classification, as designated by the adopted Comprehensive Plan.					
Management of Companies & Enterprises (Sector 53)		*			
Massage, Business of		*			
Metal Fabrication Shop	*				
Microbrewery with Minor Events	*	*			
Microbrewery with Major Events ^	*	*			
Nightclubs, Bars, Pubs		*			
Offices & Personal Services, Class 1		*		*	* —
Offices & Personal Services, Class 2		*			
Offices & Personal Services, Class 3		*			
Professional, Scientific & Technical Services (Sector 54)		*			
Real Estate Agents & Brokers		*		*	
Repair Service Electronic & Appliance		*			
Restaurants: Carry Out		*			
Restaurants: Drive In		*			
Restaurants: General		*			* —
Retail, Class 1		*			* —
Retail, Class 2		*			
Retail, Class 3		*			
Rural Guest Establishment: Bed & Breakfast	*	*			* —
Rural Guest Establishment: Bed & Breakfast Inn	*	*			
Rural Guest Establishment: Country Inn	*	*			
Storage of Goods, Outdoor	*	*		*	
Storage or Warehousing: Inside Building		*		*	

TABLE OF PERMITTED USES – CONDITIONAL ZONING DISTRICTS					
* = PERMITTED USE					
USE TYPE	CONDITIONAL ZONING DISTRICTS				
	ASE-CZ	MPD-CZ	MHP-CZ	REDA-CZ-1	RMPD-CZ <sup>12</sup>
NOTE: Applications for Conditional Zoning Districts must list specific uses for consideration/approval ^: Use shall not be approved on parcels located in the Rural Buffer land use classification, as designated by the adopted Comprehensive Plan.					
Studio (Art)		*		*	*
Taxidermy	*				
Theater, Indoor or Outdoor (including Drive-ins)		*		*	
Tourist Home					
Wholesale Trade		*			
Winery with Minor Events	*	*			
Winery with Major Events ^	*	*			
<b>EXTRACTIVE USES</b>					
Extraction of Earth Products					
<b>GOVERNMENTAL USES</b>					
Governmental Facilities & Office Buildings		*			*
Governmental Protective Services (Police & Fire Stations) Rescue Squads, Volunteer Fire Departments		*			*
Military Installations (National Guard & Reserve Army)					
Public Administration (Sector 92)		*			
<b>MANUFACTURING, ASSEMBLY &amp; PROCESSING</b>					
Assembly and Packaging Operations Including Distribution and Mail Order Houses, But Excluding On-Premises Retail Outlets		*			
Industrial, Heavy		*			
Industrial, Light		*			
Industrial, Medium		*			
Manufacturing (Sector 31-33)		*			
Microbrewery, production only	*	*			
Pharmaceutical Products		*			

TABLE OF PERMITTED USES – CONDITIONAL ZONING DISTRICTS					
* = PERMITTED USE					
USE TYPE	CONDITIONAL ZONING DISTRICTS				
	ASE-CZ	MPD-CZ	MHP-CZ	REDA-CZ-1	RMPD-CZ <sup>12</sup>
NOTE: Applications for Conditional Zoning Districts must list specific uses for consideration/approval ^: Use shall not be approved on parcels located in the Rural Buffer land use classification, as designated by the adopted Comprehensive Plan.					
Printing & Lithography		*			
Sawmills ^	*				
Winery, production only	*	*			
<b>MEDICAL USES</b>					
Health Services: Over 10,000 Sq. Ft.		*			
Health Services: Under 10,000 Sq. Ft		*			
Hospitals		*			
Veterinary Clinic	*	*			
Veterinary Clinic, mobile	*	*			
Veterinary Hospitals	*	*			
<b>RECREATIONAL USES</b>					
Arts, Entertainment & Recreation (Sector 71)					
Botanical Gardens & Arboretums	*				
Camp/Retreat Center	*				
Golf Driving and Practice Ranges		*			
Guest Ranch	*				
Parks, Public	*	*			* -
Recreational Facilities		*			
Golf Course		*	*		
Race Track (Motorized, etc.) and Go-Kart Track Facilities				*	
<b>RESIDENTIAL USES</b>					
Dwelling; Mobile Home	*		*		* -
Dwelling; Multiple Family		*			

TABLE OF PERMITTED USES – CONDITIONAL ZONING DISTRICTS					
* = PERMITTED USE					
USE TYPE	CONDITIONAL ZONING DISTRICTS				
	ASE-CZ	MPD-CZ	MHP-CZ	REDA-CZ-1	RMPD-CZ <sup>12</sup>
NOTE: Applications for Conditional Zoning Districts must list specific uses for consideration/approval ^: Use shall not be approved on parcels located in the Rural Buffer land use classification, as designated by the adopted Comprehensive Plan.					
Dwelling; Single-Family	*	*			* -
Dwelling; Two-Family		*			* -
Family Care Home					
Group Care Facility		*			
Rehabilitative Care Facility		*			
Residential Hotel (Fraternities, Sororities, and Dormitories)					
Rooming House					
<b>TELECOMMUNICATIONS</b>					
Telecommunication Tower – Stealth (75 feet or shorter)	*	*			
Telecommunication Towers (150 feet in height or shorter)	*	*			
Telecommunication Towers (greater than 150 in height)	*	*			
<b>TEMPORARY USES</b>					
Buildings, Portable	*				
Temporary Mobile Home (Use during construction/installation of permanent residential unit and for 30 days following issuance of Certificate of Occupancy)	*				
<b>TRANSPORTATION</b>					
Bus Passenger Shelter		*			
Bus Terminals & Garages		*			
Motor Freight Terminals		*			
Motor Vehicle Maintenance & Repair (Body Shop)		*			
Motor Vehicle Repair Garage		*			
Motor Vehicle Sales Rental (New & Used)		*			

TABLE OF PERMITTED USES – CONDITIONAL ZONING DISTRICTS					
* = PERMITTED USE					
USE TYPE	CONDITIONAL ZONING DISTRICTS				
	ASE-CZ	MPD-CZ	MHP-CZ	REDA-CZ-1	RMPD-CZ <sup>12</sup>
NOTE: Applications for Conditional Zoning Districts must list specific uses for consideration/approval ^: Use shall not be approved on parcels located in the Rural Buffer land use classification, as designated by the adopted Comprehensive Plan.					
Motor Vehicle Services Stations		*			
Parking As Principal Use, Surface or Structure		*			
Petroleum Products: Storage & Distribution		*			
Postal & Parcel Delivery Services		*		*	
<b>UTILITIES</b>					
Elevated Water Storage Tanks	*	*			
Public Utility Stations & Sub-Stations, Switching Stations, Telephone Exchanges, Water & Sewage Treatment Plants	*	*			
Electric, Gas, and Liquid Fuel Transmission Lines	*	*			
Water & Sanitary Sewer Pumping	*	*			
Solar Array – Large Facility	*	*			
Solar Array – Public Utility	*	*			
<b>WASTE MANAGEMENT</b>					
Landfills (2 Acres or More)					
Landfills (Less Than 2 Acres)					
Waste Management Facility; Hazardous & Toxic					
<b>MISCELLANEOUS</b>					
Accessory Uses	*	*	*	*	
Airports, General Aviation, Heliports, S.T.O.L.					
Assembly Facility Greater Than 300 Occupants ^	*	*			
Assembly Facility Less Than 300 Occupants	*	*		*	
Cemetery					
Church	*	*			* -
Clubs or Lodges; Social; Fraternal or Union Clubhouses	*	*			* -

TABLE OF PERMITTED USES – CONDITIONAL ZONING DISTRICTS					
* = PERMITTED USE					
USE TYPE	CONDITIONAL ZONING DISTRICTS				
	ASE-CZ	MPD-CZ	MHP-CZ	REDA-CZ-1	RMPD-CZ <sup>12</sup>
NOTE: Applications for Conditional Zoning Districts must list specific uses for consideration/approval ^: Use shall not be approved on parcels located in the Rural Buffer land use classification, as designated by the adopted Comprehensive Plan.					
Community Center	*	*			* -
Crematoria		*			
Historic Sites Non-Residential/Mixed Use	*	*			
Information (Sector 51)		*			
Research Facility		*			
Research Lands & Installations, Non-profit		*			
Rural Heritage Museum	*				
Rural Special Events	*	*			* -

- (1) Minimum lot area, lot width, and setback requirements as specified in Article 3 of this Ordinance may be reduced for lots created as part of a Flexible Development subdivision as provided in Section 7.13 of this Ordinance.

**(C) Flag Lots**

- (1) Flag lots as defined in Article 10 are accommodated for as provided in Section 7.7 of this Ordinance.

**(D) Reuse of Existing Farm Buildings within the Rural Buffer Zoning District**

- (1) Setback requirements may be lessened through the appropriate permitting process for agricultural support enterprise uses that reuse farm buildings in existence as of May 5, 2015 that are currently located within the required setback area.
  - (a) This provision applies to agricultural support enterprise uses currently zoned RB.
  - (b) The setback width shall not be lessened to a distance less than the setback required in the RB general use zoning district.
  - (c) For purposes of this subsection, agricultural support enterprise uses shall be defined as those permitted in the ASE-CZ zoning district, as detailed within Section 5.2.3 of this Ordinance.

**(E) Master Plan Development Conditional Zoning Districts**

- (1) Minimum lot area, lot width, structural height, and setback requirements for Master Plan Development (MPD-CZ) and Rural Master Plan Development (RMPD-CZ) Conditional Zoning districts shall be determined as part of the project's review process as detailed in Section 2.9, and in accordance with the provisions of Section 6.7, of this Ordinance.<sup>13</sup>

**6.2.3 Clustering**

**(A) UNIV-CA & UNIV – PW Watershed Protection Overlay Districts**

- (1) Clustering of residential lots is permitted in accordance with Section 7.12 of this Ordinance.
- (2) Each lot shall contain a minimum of one acre.

**(B) All Other Overlay Districts**

Clustering of residential lots is permitted in accordance with Section 7.13 of this Ordinance.

**6.2.4 Irregular Lots**

Any irregular lot of record at the time these regulations became effective may be subdivided in compliance with applicable subdivision regulations and improvement requirements, to create additional regular lots, provided that such lots meet all requirements of the district and that no residual substandard lots remain as a result of such action.

**6.2.5 Principal Uses**

There shall be no more than one principal use on any zoning lot except where:

- (A) Permitted as a CU District or CZ District; or
- (B) The parcel is located within an Economic Development District, Commercial Transition Activity Node, Commercial-Industrial Transition Activity Node, Rural Neighborhood

<sup>13</sup> Language added by staff clarifying how minimum lot area and setbacks are determined for both master plan conditional zoning districts.

- ~~(5) Non-residential uses within Transition Areas, as designated by the Comprehensive Plan, may provide one break in the required buffer per lot adjacent to the interstate right-of-way in order to provide an on-site commercial sign and/or building visibility. The break shall constitute no more than 50% of the interstate highway frontage.~~

## SECTION 6.7: ADDITIONAL STANDARDS FOR MPD-CZD AND RMPD-CZ

### 6.7.1 Master Plan

- (A) All applications for the MPD-CZ and RMPD-CZ designation shall be prepared in accordance with Section 2.9 of this Ordinance and shall include a general development plan herein called the 'Master Plan'.
- (B) The Master Plan shall be prepared by an appropriately licensed professional and shall include the following:
- (1) **Map of the development site, including the following:**
    - (a) Overall acreage of the site,
    - (b) Adjacent rights-of-ways,
    - (c) Zoning designation and current use of adjacent properties, including those across rights-of-ways,
    - (d) Streams and other environmental features on-site and within 1,000 feet, and
    - (e) Any existing structures or improvements on-site.
  - (2) **General layout of development, including the following:**
    - (a) Each development lot/pod and acreage of each,
    - (b) Interior roadway plan, with cross section detail also showing drainage,
    - (c) Proposed access points, and
    - (d) Proposed on-site recreation and/or open space.
  - (3) **Proposed Uses**
    - (a) All uses proposed within the development shall be shown on the Master Plan.
    - (b) For developments with more than one development lot/pod, the proposed uses shall be listed for each lot/pod.
    - (c) More than one use may be approved for each lot/pod. However, the Master Plan shall include a compatibility matrix to limit conflicts between adjacent uses.

**Figure 6.7.1.B: Master Plan Proposed Use Matrix Example**

Recommended Compatible Adjacencies								
P = Permitted      X = Avoid      ◆ = Permit with Enhanced Vegetation								
Use Type	1	2	3	4	5	6	7	8
<b>1. Parks/Recreation/Open Space</b>	P	P	P	P	P	P	P	X
<b>2. Single-Family Detached</b>	P	P	P	◆	◆	P	X	X
<b>3. Single-Family Attached</b>	P	P	P	P	P	P	X	X
<b>4. Multi-Family</b>	P	◆	P	P	P	P	◆	X
<b>5. 1- to 2-Story Office</b>	P	◆	P	P	P	P	P	X
<b>6. Ground Floor Retail</b>	P	P	P	P	P	P	P	X
<b>7. 3+ Story Office</b>	P	X	X	◆	P	P	P	P
<b>8. Manufacturing / Industrial</b>	X	X	X	X	X	X	P	P

(d) For residential uses, the Master Plan shall include the maximum density permitted.

**(4) Setbacks & Buffers**

(a) All setbacks and buffers shall be shown on the Master Plan for the following:

- (i) Development perimeter,
- (ii) Each development lot/pod,
- (iii) Streams, Special Flood Hazard Areas, and other environmentally sensitive areas, and
- (iv) Rights-of-ways, interior and adjacent to the development.

(b) Setbacks and buffers for each lot/pod shall be consistent with the compatibility matrix required when multiple uses are approved for each lot/pod

**(5) Maximum Building Heights**

- (a) Maximum building heights shall be provided on the Master Plan.
- (b) Maximum building heights may be established for each development lot/pod or for the development, as a whole.
- (c) Varying building height maximums, if established, shall be consistent with an approved compatibility matrix, if applicable.

**(6) Utility Master Plan**

(a) The Master Plan shall show the proposed location of all utility lines, structures and accompanying easements, including but not limited to:

- (i) Sanitary sewer,
- (ii) Potable Water,
- (iii) Reclaimed Water,
- (iv) Stormwater Management,

- (v) Electrical service,
  - (vi) Cable,
  - (vii) Telephone,
  - (viii) Fiber Optic, and
  - (ix) Other.
  - (b) All onsite utility lines shall be underground, unless approved by the Board of County Commissioners.
- (7) Master Sign Plan**
- (a) A master sign plan, consistent with the standards established in Section 6.12, shall be reviewed and approved as part of the Master Plan.
  - (b) The sign plan shall include the following:
    - (i) Location and size of all signs proposed on-site, including wall signs, identification signs, informational signs, etc.,
    - (ii) Illumination specifications of signs, if any,
    - (iii) Materials (signs and supports),
    - (iv) Planting details for ground and pole mounted signs, and
    - (v) Any other information requested by the Planning Director and/or Board of County Commissioners.
- (8) Architectural Concept Plan**
- (a) An architectural concept plan shall be required for developments with multiple buildings and development lot/pods. The plan shall address the following:
    - (i) Architectural theme on-site, if any,
    - (ii) Permitted color palettes,
    - (iii) Acceptable building materials (i.e. siding, roofing, doors, trim, awnings, etc.),
    - (iv) Specific design requirements, if any, and
    - (v) Any other information requested by the Planning Director and/or Board of County Commissioners.
  - (b) Architectural Concept Plans shall not be required for single-family residential subdivisions approved as **either** a MPD-CZ **or** RMPD-CZ. However, they may be approved with the Master Plan if proposed by the applicant.
- (C)** The Master Plan shall be approved by the Board of County Commissioners in conjunction with the CZD rezoning application.

### **6.7.2 Permitted Adjustments**

---

- (A)** The ~~MPD-CZ~~**Master Plan** designation permits a prescribed amount of flexibility when developing property and permitted adjustments shall be consistent with the following:
- (1) Non-Residential Development Lots/Pods**
- (a) Maximum intensity of development for each lot/pod, when multiple uses are listed for each, shall be based on traffic generation for each use, in accordance with ITE Trip Generation Manual and may be established on the Master Plan.

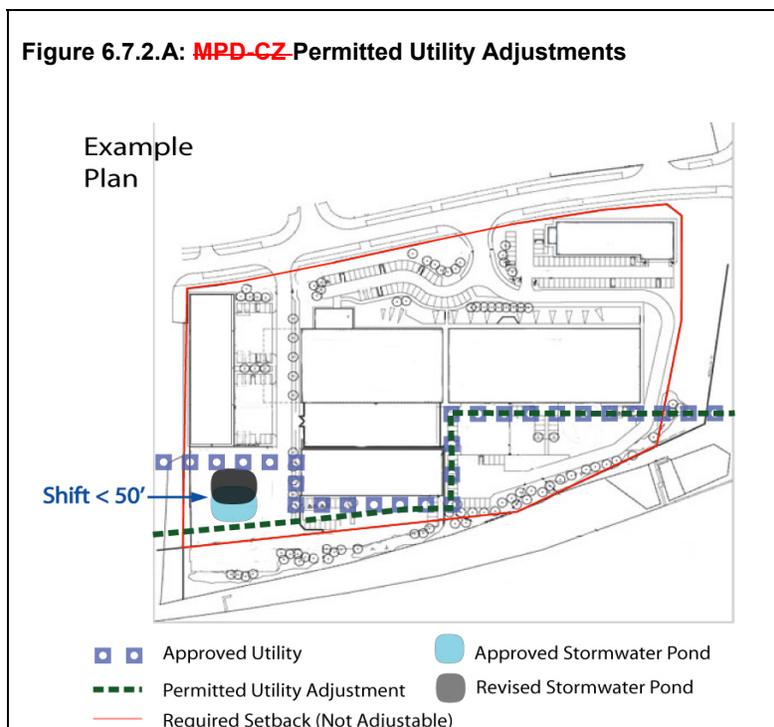
- (b) The acreage of each development lot/pod may be adjusted by up to 15% ~~for MPD-CZ projects~~, provided the acreage of the entire development site remains the same and a plat has not been approved for the property.

**(2) Roadways & Access Points**

- (a) Shifts in the interior roadways/rights-of-ways shall be considered permitted adjustments provided the following conditions are met:
  - (i) The roadway/right-of-way is moved less than 50 feet to either side,
  - (ii) The roadway/right-of-way width remains the same, and
  - (iii) The roadway/right-of-way shift does not cause a change in the location or design of any intersection with a roadway exterior to the development.
- (b) Shifts in the location of roadway access points interior of the development shall be a permitted adjustment, provided the number of access points remains consistent with the approved Master Plan and the locations meet all separation requirements established within this Ordinance.
- (c) All points of access from roadways exterior to the development shall be as approved on the Master Plan.

**(3) Utilities**

- (a) Shifts in the location of utilities serving the development shall be a permitted adjustment provided the changes are consistent with the following:
  - (i) The proposed changes do not impact any perimeter buffers and/or setbacks established on the Master Plan.
  - (ii) On-site stormwater ponds shown on the Master Plan that are considered part of the buffer for incompatible uses, shall not be shifted more than 50 feet along the perimeter property boundary.



- (B) Permitted Adjustments may be approved by the Planning Director. The Master Plan shall be revised to show all permitted adjustments and filed with the Planning Department for incorporation in the approved MPD-CZD or RMPD-CZ. Other changes to the Master Plan shall be approved by the Board of County Commissioners in accordance with the procedures specified in Section 2.9.2 of this Ordinance.

### 6.7.3 Final Development Plans

- (A) Site plans shall be submitted subsequent to MPD-CZ or RMPD-CZ Master Plan approval in accordance with the procedures established in Section 2.5 of this Ordinance.
- (B) Approval of detailed site plans and related material is an administrative action and no public notice or hearing is required.
- (C) After a MPD-CZ or RMPD-CZ district has been established, no zoning compliance permit, permit for land disturbing activity, building permit, or the like, shall be issued for the site, unless and until the Planning Director has approved a site plan, prepared and approved in accordance with Section 2.5 of this Ordinance, for the development as a whole or each development lot/pod, in accordance with the approved Master Plan.
- (D) Approval of site plans shall be based on compliance with regulations applying at the time the land was zoned to MPD-CZ or RMPD-CZ.
- (E) The Planning Director shall certify that all conditions imposed by the Board of County Commissioners with the approval of the MPD-CZ or RMPD-CZ and Master Plan have been met and a report shall be provided to the County Manager within 30 days following the approval of a site plan for any property included within the MPD-CZ or RMPD-CZ.

### 6.7.4 Start of Construction & Extensions

- (A) Site plans shall be approved and construction started in accordance with the timetable approved with the Master Plan. If the site plan(s) have not been approved or no construction has started within the stated time frames, the Master Plan becomes void and of no effect. The owner can request an extension from the Board of County Commissioners upon the favorable recommendation of the Planning Board, if the request is received before the Master Plan expires.
- (B) No changes shall be made to the conditions of approval with extension requests. Approval of a time extension shall be based on evidence presented by the applicant showing that approvals have been pursued in a timely manner, and that delays have resulted from factors beyond the control of the developer.

### 6.7.5 Specific Standards for Hillsborough EDD

In addition to the standards and regulations for all MPD-CZ districts established in this Ordinance, the standards contained herein shall apply to MPD-CZ districts in the Hillsborough Economic Development District.

(A) **Purpose and Intent**

The purpose of the MPD-CZ in the Hillsborough Economic Development District is to provide locations for a mix of residential, commercial and light industrial uses in a cohesive development that is compatible with the natural terrain and surrounding uses. This district encourages innovation by offering flexibility in design and layout requirements to achieve a greater choice of living and working environments.

(B) **Applicability**

- (1) The minimum size of a MPD-CZ district shall be 5 acres.
- (2) This district shall only be applied where water and sewer are available at the site or are to be made available to the site as part of the development approval process.

**(C) Development Standards**

**(1) Dimensional Requirements**

- (a) There are no minimum lot sizes within the MPD-CZ district; However, the Master Plan will set forth the individual lot setbacks in accordance with the General Dimensional Requirements established herein.

TABLE 6.7.5.C: SPECIFIC STANDARDS FOR HILLSBOROUGH EDD									
ZONING DISTRICT	MINIMUM ZONING LOT		MINIMUM SETBACKS					MAXIMUM IMPERVIOUS SURFACE COVER (%)	MAXIMUM HEIGHT (FEET)
	AREA (ACRE)	WIDTH (FEET)	FRONT (FEET)	REAR (FEET)	SIDE				
					ONE SIDE (FEET)	COMBINED (FEET)	STREET (FEET)		
MPD-CZ	-	200	60	40	20	40	40	50	60

- (b) Single-family and duplex residential uses following the flexible development guidelines established in Section 7.13 of this Ordinance, may reduce the minimum setbacks by 50% and the lot width by 60%.

**(2) Internal Access**

- (a) All outparcels within the MPD-CZ district shall have internal access to the development.
- (b) All parcels shall provide for interconnectivity between parking areas if determined necessary by staff.

**(3)** No drive through facilities may be constructed in this district.

**(4)** Consideration of lower cost and affordable housing shall be incorporated into any mixed use development.

**(5)** A justification for any deviation to development standards must state a public benefit or purpose.

**(D) Plan Approvals**

- (1) If a MPD-CZ rezoning application is approved with a Master Plan, the approval does not obviate the need to obtain a Class A Special Use Permit or site plan approval for the individual “pods”/lots shown on the Master Plan in accordance with the provisions of this Ordinance.
- (2) Tracts over 2.0 acres and/or structure(s) totaling cumulatively over 20,000 square feet on one zoning lot require a Class A Special Use Permit approved in accordance with the provisions of this Ordinance. Otherwise, the site plan may be approved in accordance with Section 2.5 of this Ordinance.
- (3) No special use permit for a site governed by an approved MPD-CZ Master Plan may be denied for reasons set forth in Section 2.5 or Article 5 of this Ordinance, if the basis for such denial involves an element or effect of the development that has been specifically addressed and approved in the MPD-CZ Master Plan approval process, unless one of the following conditions apply:
  - (a) It can be demonstrated that the information presented to the Board of County Commissioners at the MPD-CZ Master Plan approval stage was materially false or misleading, or
  - (b) Conditions have changed substantially in a manner that could not reasonably have been anticipated, or
  - (c) The plan has changed substantially in its impacts, or

- (d) A basis for denial for reasons set forth in Section 2.5 or Article 5 is demonstrated by clear and convincing evidence.
- (4) A site plan shall not be accepted by staff for review until the MPD-CZ Master Plan has been approved.
- (5) The Planning Director shall have the discretion to require a modification to the approved MPD-CZ Master Plan should the submitted site plan violate, in the Planning Director's opinion, the provisions set forth in Section 6.7.5(D)(3) above.

## SECTION 6.8: LANDSCAPING, BUFFERS & TREE PROTECTION

### 6.8.1 Purpose and Intent

The standards of this section provide for the preservation of existing vegetation and for the installation and maintenance of new vegetation and other landscape architectural features. The purpose of these standards is to:

- (A) Protect, preserve, and enhance the visual appeal, character, and value of Orange County;
- (B) Enhance the beauty of the built environment;
- (C) Enhance the privacy and welfare of citizens by separating incompatible land uses;
- (D) Allow for the ecological benefits provided by plant materials including: protection of land from erosion and storm water runoff; minimize noise, water, light and air pollution; mitigation of the heat island effect; recharging of aquifers; and protection and enhancement of wildlife habitats; and
- (E) Preservation of natural forested tree areas.

### 6.8.2 Applicability

The landscaping and buffering standards of this section shall apply to all proposed land development for which a site plan, special use permit, MPD-CZ or RMPD-CZ Master Plan, preliminary plat in the case of major subdivisions or a final plat in the case of minor subdivisions, is required.

### 6.8.3 Variations

- (A) In some cases the strict adherence to this section of the Ordinance would serve no useful purpose, in which case the Planning Director, may modify the buffer and landscape standards of this Section where:
  - (1) The topography of a site and/or the size of a proposed lot are sufficient to serve the purpose of a buffer;
  - (2) Existing structures, utilities, gardens or active farmland are located in the buffer or setback areas,
  - (3) Existing vegetation is damaged, unhealthy, or poses a safety threat; or
  - (4) An existing residence or structure with established lawn areas and/or plant beds is contained within a proposed subdivision lot.
- (B) The Planning Director may require alternative buffers or landscaping, including locations other than those typically required, when a modification to the requirements of this section is warranted in order to meet the intent of the specified standards.
- (C) When a proposed lot includes one or more of the conditions listed above, the Planning Director is empowered to waive the requirements for screening or additional landscaping provided that the request is submitted in writing stating the reason and rationale for such request, and the spirit and intent of this Ordinance is achieved.

It is the intent of this section to require minimum light levels during established business hours or in those instances where members of the general public will be on-site to ensure public safety.

- (B) Pedestrian walkways and plazas must be lighted and fixtures mounted at a lower height for security and to create an inviting pedestrian environment.
- (C) Accent lighting must also be provided to illuminate such key locations as building and driveway entries, and activity areas.
- (D) Lighting for the purpose of illuminating landmarks and unique features of the site is also encouraged.
- (E) All light fixtures are to be concealed source fixtures except for pedestrian-oriented accent lights.
- (F) Security lighting fixtures or floodlights must not project over the fascia or roof line of the building(s).
- (G) Parking area and driveway fixtures should be mounted at or below a maximum height of 25 feet above the surface of the parking area or driveway.
- (H) The design of light fixtures and structural supports must be compatible with the architecture of the principal building(s) and identification signs.
- (I) Where building faces are illuminated, lighting fixtures must be integrated within the architectural design of the buildings.
- (J) Ground-mounted lighting fixtures must be weather-proof and vandal resistant.
- (K) **Hillsborough EDD**

In addition to the standards established above, the following standards shall apply within the Hillsborough EDD:

- (1) Lighting must be high efficiency lighting systems and lighting levels must be reduced during non-use hours to promote energy conservation.
- (2) 12:1 minimum/maximum glare ratio
- (3) Maximum footcandles = 80

## SECTION 6.12: SIGNS

### 6.12.1 Purpose and Intent

The purpose of this Section is to regulate the type, placement and physical dimensions of all signs in the interest of public health, safety and welfare, while recognizing their need.

It is the intent of this section to regulate signs on a per lot basis in conjunction with the zoning designation of the lot as described on the official Zoning Atlas whether a sign is directly visible from a street right-of-way or not.

### 6.12.2 Outdoor Advertising

The provisions of this Article establish standards and review criteria relating to the location, erection, maintenance, lighting, setbacks, and use of signs. This includes regulations pertaining to outdoor advertising (i.e. Billboards).

The regulation and permitting of outdoor advertising is also subject to State requirements, including the State Outdoor Advertising Control Act, and Federal requirements. In cases where there is a conflict between County regulations and State or Federal regulations, relating to the location, erection, maintenance, lighting, setbacks and use of outdoor advertising signage, the corresponding State or Federal law shall take precedent.

### 6.12.12 Signs Permitted in Specific Zoning Districts

The following signs shall be permitted in the zoning districts indicated, in accordance with all other provisions of this Section and specific standards for each sign established herein:

#### (A) On-Premise Commercial Signs

- (1) These signs shall comply with all state and county building codes and the National Electric Code. Clearance of signs is required from high voltage power lines and signs shall be located in such a way that they will maintain horizontal and vertical clearance of all overhead electrical conductors in accordance with the National Electric Code specifications, provided that no sign shall be installed closer than ten feet horizontally or vertically from any conductor or public utility guy wire.
- (2) On-premise commercial signs shall be permitted within the following zoning districts: LC-1, NC-2, CC-3, GC-4, EC-5, O/RM, EI, I-1, I-2, I-3, AS, MPD-CZ, RMPD-CZ,<sup>14</sup> MHP-CZ, ASE-CZ, REDA-CZ-1 and all of the Economic Development zoning districts.
- (3) All on-premise commercial signs shall be setback ten feet from the front, side, and rear property lines or the edge of any existing or projected street right-of-way line whichever is greater. In cases where a property abuts a residential zoned parcel of property, the side or rear yard setback requirement shall be doubled.
- (4) **Number of Signs Permitted**
  - (a) One on-premise commercial sign shall be permitted per parcel. However, one additional on-premise commercial sign may be permitted for parcels with frontage on more than one right-of-way in accordance with the provisions of this Section.
  - (b) Under no circumstances shall more than one three-dimensional sign be permitted on-site.
  - (c) For multi-tenant buildings and/or sites permitted as a conditional use or conditional zoning district, additional on-premise commercial signs or sign area may be permitted by the Board of County Commissioners.
- (5) **Height of Signs**
  - (a) Pole signs shall be limited to a height of 24 feet with a mandatory ground clearance of eight feet from the normal or finished grade elevation of the property at the base of the sign
  - (b) Ground signs shall not exceed six feet in height from the normal or finished grade elevation of the property at the base of the sign
- (6) **The allowable area for on-premise commercial signs shall be determined as follows:**
  - (a) Single or double-faced signs shall not exceed 32 square feet in area, per sign face. For parcels zoned CC-3, GC-4, O/RM, I-1, I-3, AS, EDB-2, EDE-2, EDH-4, EDH-5, and MPD-CZ, and RMPD-CZ signage shall not exceed 72 square feet in area for parcels that:
    - (i) Are larger than 60,000 square feet in area, and
    - (ii) Have more than 300 linear frontage along a NC Department of Transportation (NC DOT) maintained roadway.
  - (b) Three-dimensional signs shall not exceed a maximum volume of 54 cubic feet with no dimension exceeding six feet.

<sup>14</sup> Text amendment adding references to the new rural master plan district.

- ~~(8) In no case shall an off-premise commercial sign be located closer than 1,000 feet to an existing off-premise commercial sign.~~
- ~~(9) Off-premise commercial signs are prohibited within the Major Transportation Corridor (MTC) overlay district.~~
- ~~(10) No person may, for the purpose of increasing or enhancing the visibility of any off-premises commercial sign, damage, trim, destroy, or remove any trees, shrubs, or other vegetation in the following locations:~~
- ~~(a) Within the right-of-way of any public street or road, unless the work is done pursuant to the express written authorization of the North Carolina Department of Transportation;~~
- ~~(b) On property that is not under the ownership or control of the person responsible for such work, unless the work is done pursuant to the express authorization of the property owner where the vegetation is located; and,~~
- ~~(c) In any area where such vegetation is required to remain under a permit issued in accordance with this Ordinance.~~

**(C) Wall Signs**

- (1) Shall either be mounted or painted on a building.
- (2) Wall signs may be internally illuminated and shall comply with all applicable state and county building codes and the National Electric Code.
- (3) Wall Signs shall be permitted within the following zoning districts: LC-1, NC-2, CC-3, GC-4, EC-5, O/RM, EI, I-1, I-2, I-3, AS, MPD-CZ, RMPD-CZ, ASE-CZ, REDA-CZ-1 and all of the Economic Development zoning districts.
- (4) All wall signs shall be offset a minimum of ten feet from the corner of the building on which it is mounted.
- (5) Wall signs shall not protrude more than 12 inches from the face of building on which it is mounted.
- (6) Number of Signs Permitted
- (a) Only one wall sign shall be permitted per building facade. In cases where a building is located on a corner lot, an additional wall sign may be permitted on the building wall facing the second street right-of-way, subject to the requirements of this Ordinance.
- (b) For multi-tenant buildings permitted as a conditional use or conditional zoning district additional wall signs may be permitted by the Board of County Commissioners.
- (7) The allowable sign area shall be determined as follows:  
One square foot of sign area for every foot of building length facing a public right-of-way, not to exceed 32 square feet. For parcels zoned CC-3, GC-4, O/RM, I-2, I-3, AS, EDB-2, EDE-2, EDH-4, EDH-5, ~~and MPD-CZ~~, and RMPD-CZ signage shall not exceed 64 square feet in area for parcels that:
- (a) Are larger than 60,000 square feet in area, and
- (b) Contain a structure with more than 100 linear feet of building length facing a public right-of-way, and
- (c) Have more than 300 feet of linear frontage along a NC Department of Transportation (NC DOT) maintained roadway.
- (8) A changeable copy sign may be utilized as a wall sign.

- (9) Wall signs shall not extend above the soffit, parapet, or eave line of the building to which it is attached.

**(D) Projecting Signs**

- (1) Projecting signs shall be mounted on a building.
- (2) Projecting signs may be internally illuminated and shall comply with all applicable state and county building codes and the National Electric Code.
- (3) Projecting signs shall be permitted within the following zoning districts: LC-1, NC-2, CC-3, GC-4, EC-5, O/RM, EI, I-1, I-2, I-3, AS, MPD-CZ, RMPD-CZ, ASE-CZ, REDA-CZ-1 and all of the Economic Development zoning districts.
- (4) Projecting signs shall adhere to the minimum setback requirements established for all structures within the zoning district in which it is located.
- (5) Only one projecting signs shall be permitted per building facade even in cases of a building located on a corner lot.
- (6) The allowable sign area shall be determined as follows:
  - (a) One square foot of sign area for every foot of building length, facing a public right-of-way, not to exceed 32 square feet in area.
- (7) Projecting signs shall clear sidewalks and pedestrian paths by a height of at least ten feet above finished grade.
- (8) Projecting signs shall not extend above the soffit, parapet, or eave line of the building to which it is attached.
- (9) Projecting signs shall not be located at the corner of a building except at right angles to the building façade.

**(E) Window Signs**

- (1) Window signs shall be permitted within the following zoning districts: LC-1, NC-2, CC-3, GC-4, EC-5, O/RM, EI, I-1, I-2, I-3, AS, MPD-CZ, RMPD-CZ, ASE-CZ, REDA-CZ-1 and all of the Economic Development zoning districts.
- (2) Window signs shall be limited to a maximum of 30% of the total window area where the sign is to be located.
- (3) Window signs may be utilized for advertising specials or sales within the business, or displaying the name and other pertinent business information associated with the principal use.
- (4) Signs may be etched, painted or otherwise attached to be made a permanent addition to the pane of glass.

**(F) Awning Signs**

- (1) Awning signs shall be permitted within the following zoning districts: LC-1, NC-2, CC-3, GC-4, EC-5, O/RM, EI, I-1, I-2, I-3, AS, MPD-CZ, RMPD-CZ, ASE-CZ, REDA-CZ-1 and all of the Economic Development zoning districts. See Section 6.12.14(E) for additional standards for Awning Signs located in Economic Development Districts.
- (2) Awning Signs shall be located above the main entrance to a nonresidential land use and shall contain the name of the use.
- (3) Awning Sign area shall be limited to a maximum of 50% of the total awning area erected over the entrance of a nonresidential land use. Where an awning sign is utilized at a multi-use development, the amount of sign area shall be computed as part of the overall sign area allotted to wall signs, not to exceed 50% of the total awning area.

**(G) Drive-Through Menu Signs**