

SECTION II. DEFINITIONS

Unless otherwise stated the following words shall, for purposes of this Ordinance, have the following definitions. Words used in the present tense shall be understood to include the future tense. Words used in the singular shall be understood to include the plural.

ALLEY - A roadway which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

DEDICATION - A gift, by the owner, of land for a specified purpose, or purposes. Because a transfer of property is entailed, dedication must be made by written instrument and is completed with an acceptance.

*Amended
10/4/82

***DWELLING UNIT** - A room or group of rooms forming a single dependent habitable unit with facilities used or intended to be used for living, sleeping, cooking and eating by one family; for owner occupancy or for rental, lease or other occupancy on a weekly or longer basis, and containing independent cooking, sanitary and sleeping facilities. Units otherwise meeting this definition but occupied by transients on a rental or lease basis for periods of less than one week shall be construed to be lodging units.

Mobile homes and modular units are to be considered dwelling units under this definition.

*Amended
1/17/79

***EASEMENT** - A grant of rights by the property owner to a portion of land for a specified purpose.

*Amended
7/5/88

***FLAG LOT** – An irregularly shaped lot where the buildable portion of the lot is connected to its street frontage by an arm of the lot (see Figures 1 to 4 on page 33b).

*Amended
10/13/99

***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 where all land is subdivided into lots four (4) 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 Article IV-B-10, Section D.1; or

- (b) A "conservation-cluster" approach 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 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.

*Amended
4/21/09

***FLOODPLAIN** - refers to any land area susceptible to being inundated by water from any source, more specifically, lands subject to a one (1) percent or greater chance of being flooded in any given year as determined in the Flood Damage Prevention Ordinance. The floodplain is also referred to as the special flood hazard area. Special flood hazard areas are mapped in the Federal Emergency Management Agency Flood Insurance Rate Maps as Zone AE for areas, where the base flood elevation has been determined, and Zone A, where no base flood elevation has been determined.

*Amended
4/21/09

***FLOODWAY** - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. This term may also be referred to as the regulatory floodway."

GROUP DEVELOPMENT - One or more principal structures built on a single lot, tract or parcel of land and designed for occupancy by more than one separate family, firm, business or other enterprise.

*Amended
5/16/89

***IMMEDIATE NEIGHBORHOOD** - A subdivision or area of the county which distinguishes it from other subdivisions or areas by virtue of its location within the service area of a park site or sites as shown on the adopted Recreation Element of the Comprehensive Plan or the Joint Planning Area Land Use Plan for Chapel Hill, Carrboro, and Orange County. The Recreation Element designates four (4) district park sites and six (6) community park sites as shown on the map in Appendix E. The Joint Planning Area Land Use Plan designates a comprehensive system of parks and open spaces designed to serve the residents of the more urbanized towns of Chapel Hill and Carrboro.

*Amended
2/1/88

***LEVEL OF SERVICE** - Level of service as described in the 1965 Highway Capacity Manual, indicates how well traffic moves on a particular highway facility or through a specific intersection. There are six levels of servicing ranging from A through F. Level of service A indicates generally free movement. Level of service E represents maximum capacity of the facility. Level F indicates congestion. Level of service C is considered the design level of service, representing a stable traffic flow and a relatively satisfactory travel speed.

LOT - A piece, parcel or plat of land intended as a unit for the transfer of ownership or for development.

*Amended
10/3/88

***LOT AREA** - The total horizontal area within the lot lines of a lot exclusive of street or highway right-of-way and easements of access.

LOT, DOUBLE FRONTAGE - A continuous (through) lot which is accessible from both the streets upon which it fronts on opposite sides.

*Amended
10/4/82

LOT, OF RECORD - A lot created by deed or plat prior to the existence of the Subdivision Regulations. The area and dimensions of the lot shall meet any regulations in effect at the time the lot was recorded. The lot of record dates are as follows:

Chapel Hill Township 12/4/67

Eno Township 3/2/70

Hillsborough, Bingham, Cheeks, Cedar Grove and Little
River Townships 3/13/78

*Amended
2/1/88

***MAJOR INTERSECTION** - Any intersection where traffic generated by a subdivision proposal will have significant impact on the operation of the intersection.

*Amended
11/5/03

***MAJOR SUBDIVISION**

- 1) Major Subdivision, Standard - All subdivisions not classified as either Minor Subdivision or Major Subdivision, Class A Special Use or Major Subdivision, Planned Development.
- 2) Major Subdivision, Class A Special Use, Rural Designated (21-40 Lots) - A tract of land in a Rural Designated area that is proposed for a subdivision of 21-40 lots.
- 3) Major Subdivision, Class A Special Use, Urban Designated (21-79 Lots) - A tract of land in an Urban Designated area that is proposed for a subdivision of 21-79 lots.
- 4) Major Subdivision, Planned Development, Rural Designated (41+ Lots) - A tract of land in a Rural Designated area that is proposed for a subdivision of 41 or more lots.
- 5) Major Subdivision, Planned Development, Urban Designated (80+ Lots) - A tract of land in an Urban Designated area that is proposed for a subdivision of 80 or more lots.

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, Planned Development, (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.

*Amended
9/16/03

***OPEN BURNING OF TREES, LIMBS, STUMPS AND CONSTRUCTION DEBRIS ASSOCIATED WITH THE DEVELOPMENT OF THE SUBDIVISION** - the disposal of limbs, stumps and construction debris associated with the development of the subdivision by means of outdoor fires.

PRIVATE ROAD - A road not intended for public use or public dedication and which serves a limited number of lots, and therefore is typically not built to Department of Transportation standards. It is maintained by private property owners, and intended for those private property owners.

*Amended
11/5/03

***RESOURCES MANAGEMENT PLAN** - A document and map, submitted as a part of a Major Subdivision, Class A Special Use Permit application or a Major Subdivision, Planned Development Atlas Amendment with SUP application, that sets forth, in detail, the location of and the proposed methods for:

- 1) protection of natural resources (i.e. habitat maintenance, existing vegetation, and mitigation of environmentally sensitive areas),
- 2) ownership and maintenance of open spaces (common open space, proposed conservation easements, and landscape buffers)
- 3) provision of services (solid waste management to include recycling, storm water management (temporary and permanent), irrigation systems to include the source of water,
- 4) the handling of land clearing debris.

*Amended
11/5/03

***RURAL DESIGNATED** – For property that is not located in Urban Designated areas as defined in these definitions.

*Amended
4/21/09

***SPECIAL FLOOD HAZARD AREAS** - refer to areas mapped in the Federal Emergency Management Agency Flood Insurance Rate Maps, with an effective date of February 2, 2007, as Zone AE for areas, where the base flood elevation has been determined, and Zone A, where no base flood elevation has been determined."

*Amended
10/7/91

***SITE SPECIFIC DEVELOPMENT PLAN** - A plan approved by the Orange County Board of Commissioners following a public hearing and which describes, with reasonable certainty, the type and intensity of use for a specific parcel or parcels of property located within the County's zoning jurisdiction. A Site Specific Development Plan shall be deemed approved upon the effective date of the Board of Commissioners' action. Site Plans, Special Use Permits, Planned Developments and Preliminary Subdivision Plats may be approved as Site Specific Development Plans in accordance with Section 8 of the Orange County Zoning Ordinance. Site Specific Development Plans are required only where an applicant wishes to vest his property rights for a period longer than that otherwise permitted by this Ordinance.

STREET - A way for vehicular traffic whether designated as a street, highway, thoroughfare, parkway, throughway, freeway, road, avenue, boulevard, lane, place or however otherwise designated.

STREET, ARTERIAL - A street connecting widely separated areas and designed to carry a large volume of traffic which may be fast, heavy or

both. Arterial streets are sometimes referred to as "major thoroughfares", "freeways", "expressways", etc., and are usually numbered State or Federal Highways.

STREET, COLLECTOR - A street which carries traffic from minor streets to the major systems of arterial streets, including the principle entrance streets of a residential development and streets for circulation within such a development. Collector streets may also be referred to as "connector" or "feeder" streets.

STREET, CUL-DE-SAC - Cul-de-sac is a street that generally terminates in a circular right-of-way. It is used or designed to be used to provide access to abutting properties and serves a limited number of lots.

STREET, LOCAL - Local street is used or designed primarily to provide access to abutting properties. It serves as the connecting road system between other roads within a subdivision and the thoroughfare system. It also serves or is designed to serve at least ten but not more than twenty five dwelling units and is expected to or does handle between seventy five and two hundred trips per day.

STREET, LOOP - Loop street is used as a means for local traffic to leave and enter other streets without turning around, but provides access only to abutting properties. These streets are less than one mile in length and have no collector characteristics.

STREET, MARGINAL ACCESS - A minor street which is parallel to and adjacent to arterial streets, and which provides access to abutting properties and protection from through traffic. Marginal access streets may also be referred to as "service roads".

*Amended
10/4/82

***STREET, MINOR** - Minor street is used or designed primarily to provide access to abutting properties. It serves or is designed to serve more than nine dwelling units and is expected to do or does handle up to seventy-five trips per day. These streets are normally one block long or extend on a block-by-block basis and have no collector characteristics.

STRUCTURE - Anything constructed or erected which requires permanent location above ground including mobile homes. For purposes of this ordinance, "structure" does not include landscape features such as ornamental pools, driveways, walls or fences, playhouses, open stairs.

*Amended
2/1/88

***STUDY AREA** - The area in which a traffic impact analysis will be made and extending approximately one half mile along roadways adjacent to a subdivision 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.

*Amended 4/1/85 1/8/90 8/6/90
1/6/92 5/16/00 9/18/01

***SUBDIVISION** - Subdivision means 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, provided, however, the following are not included within the definition and are not subject to any regulations pursuant to this part:

- (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 as shown in its Subdivision Regulations including private road justification standards given in Section IV-B-3-d-1.

Resultant lots, as referred to herein shall be deemed to equal standards of the Orange County Subdivision Regulations if the following standards are met:

- a. No conforming lot standard becomes non-conforming as a result of the recombination; and
 - b. Any applicable impervious surface standards are met; and
 - c. Access is provided to a public road, either direct, or by recorded easement; and
 - d. A site suitable for sewage disposal is approved by the Orange County Health Department. Where soil is unsuitable for sewage disposal, or soil suitability is undetermined, a notice of restricted development potential shall be submitted and the lot(s) in question shall be so noted on the plat; and
 - e. No increase in the number of access points to a public street over the number currently existing; and
 - f. Access is not shifted from a lower classified/volume street to a higher classified/volume street.
- (2) The division of land into parcels greater than 10 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 shown by its subdivision regulations.

The surveyor and/or Planning Department shall also certify on the plat as required by GS 47-30(f)(11).

*Amended 1/17/79 8/6/90
10/7/91 2/24/03

***SUBDIVISION, MINOR** - A division of a tract of land that does not:

- (1) Create more than five (5) lots, including the residual acreage, from any one (1) tract of land in any ten (10) year period;
- (2) Dedicate or improve any new public street other than widening an existing public street;
- (3) Extend public water and/or sanitary sewerage systems other than laterals to serve individual lots;
- (4) Necessitate the installation of drainage improvements which would require easements through one (1) or more lots to serve other lots; and
- (5) At the option of the applicant, involve vesting of the subdivision for a period greater than one year.

*Amended 2/1/88 ***TRIP GENERATION RATES** - The total count of trips to and from a subdivision study site per unit of land use as measured by parameters such as dwelling units, acres, etc.

*Amended 11/5/03 ***URBAN DESIGNATED** – For property that is located within a Transition Area and also within a Primary Service Area as defined by the Water and Sewer Management Planning and the Boundary Agreement and Map adopted December 3, 2001 and as either may be amended from time to time.

*Amended 10/7/91 ***VESTED RIGHT** - The right to undertake and complete the development of a property under the terms and conditions of an approved Site Specific Development Plan, provided, however, failure to abide by such terms and conditions shall result in a forfeiture of vested rights. The vested right is attached to and runs with the applicable property and may be exercised by successors to the original landowner.

The period during which a vested right is in affect may be extended by amendments or modifications to the Site Specific Development Plan. An application for an amendment or modification to an approved Site Specific Development Plan shall be treated as a new application.

Once established, a vested right supersedes any zoning action which would affect the type and intensity of use approved in the Site Specific Development Plan, EXCEPT:

- a) upon written consent of the landowner;
- b) upon findings, after a public hearing, that if the development were to proceed, natural or man-made hazards would pose a serious threat to the public health, safety and welfare;

- c) to the extent that the landowner is compensated for costs and expenses other than loss of property value;
- d) upon findings, after a public hearing, that the applicant or his/her representative(s) intentionally supplied inaccurate or misleading information which led to the approval of the project; or
- e) upon findings, after a public hearing, that a change in a State or Federal law or regulation precludes development of the project as approved.

Vesting of rights does not preclude the application of overlay zoning districts which impose additional regulations, provided that the regulations are applicable to all property subject to this Ordinance, and the allowable type and intensity of use is not affected.

The vested right terminates at the end of the approved vesting period for buildings and uses for which building permits have not been issued. Building permits do not expire during the approved vesting period.

*Amended
2/1/88

***VOLUME/CAPACITY ANALYSIS** - The procedures used to compare the volume of a roadway or intersection approach to its capacity (maximum number of vehicles that can pass a given point during a given time period). The procedures are described in the 1965 Highway Capacity Manual, Highway Research Board Special Report 87.

*Amended
11/5/03

***WETLANDS** - Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. (Definition taken from EPA regulations at 40 CFR Section 230.3(t) and COE Regulations at 33 CFR Section 328.3(b), as of July 2nd, 2002)