



***Zoning, Watershed,
and Subdivision
Ordinance Text
Amendments***

***Proposed
CD-MU-CR Zoning
District***

Planning Board Presentation

11-10-2020

Text Amendment History

1. **Mr. McBroom and his partners' Goal was and is, to develop their property consistent with Chatham County's Comprehensive Plan, Zoning Ordinance, Watershed Ordinance, Subdivision Ordinance and other policies.**
2. **How did they go about this?**
 - a. **They gathered facts:**
 - i. Engaged an engineer and land planner to assess their property
 - ii. Prepared concept plans, and
 - iii. Studied Chatham County's Comprehensive Plan and ordinances; and, they
 - b. **Met with planning staff:**
 - i. Accepted the recommendation that their proposal align with provisions in existing ordinances, and other suggestions; and
 - ii. Drafted these text amendments accordingly.
3. **What did they learn?**

They learned that their concept is anticipated, in fact, provided for, recommended and an Action Item of the Comprehensive Plan.



The Chatham County Comprehensive Plan (the “Plan”) envisions mixed-use to be a significant land-use designation.

In fact, **the Plan calls for “zoning districts that accommodate mixed-use development at various scales” and an “update of the ordinances” to implement its goals and objectives.** *All that is detailed in the “Justification” we submitted, and again reviewed at the public hearing.*

Meanwhile, the “Community Center” areas are continuing to develop. However, there have been no medium sized (50 to 250 acres) Mixed Use Conditional Districts with single family residential.

That is because **mixed use single family residential is not allowed under the current ordinance.**

Unless a mixed use, single family district is created soon, all the land in those areas will be consumed for other uses—and many of the Comprehensive Plan objectives will be preempted.



The revisions to the Zoning Text Amendment for a Conditional District, Mixed Use with Compact Residential addresses three concerns:

1. Maximum Built Upon Area and Residential Density: (Sec. 10.12(b)C.)

Concern: The “built upon area” and “units per acre” calculation overlap, risking exceeding the base level watershed protections.

Resolution:

a. Maintain the existing base level of watershed protection, limit impervious surface to 24% of the total project area.

-- the same as in the Compact Community Ordinance.

b. In addition to the 24% limitation, limit the number of cluster residential units to two units per gross acre in the project.

-- also, the same as in the CCO.

NOTE: A minimum of 40 percent of the single-family cluster residential area must be preserved as Conservation Space.



2. **Location:** *(formerly Sec. 10.12(b)F. Location)*

Concerns: The location was by reference to the land use “plan”—that is only a policy, not an ordinance. Also, the existing CD-MU is not limited by location.

Resolution: **Delete the location limitation.** Location and the Comprehensive Plan will guide this Board and the Commissioners when considering a rezoning request.

3. **Setback:**

Concern: Variance of the setback based upon across the road zoning is not justified when fronting a very wide divided public highway (i.e. 15-501), and the zoning may change.

Resolution: **Provide for a continuous 50’ building setback where the boundary fronts on a 100-foot-wide public road right of way.**



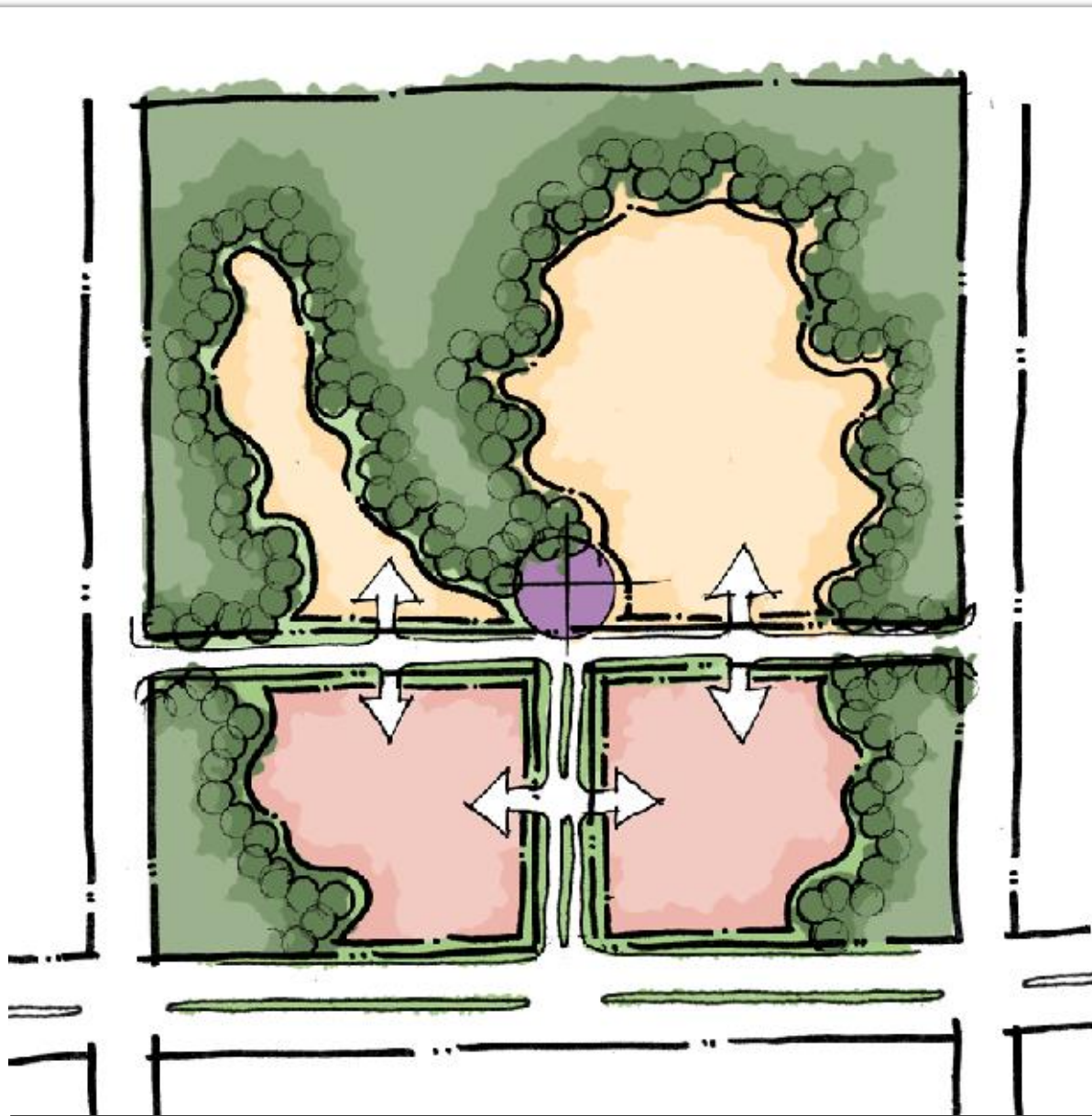
The edits are as follows:

- 1. Section D is corrected by using the term “Conservation Space”** (see section 7.8 of Subdivision Regulations ...) rather than “Open Space” “Conservation Space” is defined in the Subdivision Ordinance and the Conservation Guidelines, to include both Open Space and Natural Space, and limits Open Space to 20% of the Conservation Space.
- 2. Also, Section D continues the requirements that at least 20% of the BUA be non-residential, and that non-residential not exceed the residential area; but deletes the requirement that one be built before the other.** The original language was from the CCO for a very large development where the commercial is far from the residential. For a CD-MU-CR district, the goal of keeping those ratios in balance is best established on the site plan. The developer and the County are not burdened with tying the time of construction and permitting to the ratio.
- 3. Miscellaneous corrections, such as inserting “Compact Residential” where omitted and deleting a hyphen in “Mixed Use”** (to be consistent with the Zoning Ordinance usage).

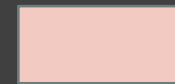


Combining current Mixed-Use and Conservation Subdivision Standards
(with more density) to create Mixed-Use Cluster Subdivision

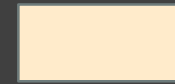




Sample Development Scenario



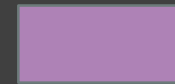
Mixed-Use



Cluster Single-Family Residential



Conservation/ Open Space



Amenity/ Park Node

Appendix – Ordinance Amendments

1. Zoning Ordinance Amendments.
2. Watershed Ordinance Amendments.
3. Subdivision Ordinance Amendments.



ATTACHMENT A to Zoning Text Amendment Application

Revised October 7, 2020

The revisions to the March 29th proposal are tracked and explanatory notes are included

PROPOSED ZONING TEXT AMENDMENT TO PROVIDE FOR:

Mixed Use, Conditional District to include a single-family Cluster Residential component – CD-MU-CR

The Chatham County Zoning Ordinance is hereby amended as follows:

SECTION 5.2 Conditional Zoning Districts, D. Mixed Use Districts (page 6) is amended by adding the definition of **CD-MU-CR**, so that sub-section D is as follows:

D. Mixed Use Districts

Approval of a conditional zoning district shall be required as a prerequisite to any use or development, as provided for in this Ordinance, for the following districts:

CD-CC Compact Community – a compact residential development with a mixed commercial use village center. See the Compact Communities Ordinance for more information.

CD-MU Mixed Use – a mixed use development that provides for an integration of diverse but compatible uses into a single development.

CD-MU-CR Mixed Use, Cluster Residential – a mixed use development that provides for an integration of diverse but compatible uses into a single development that includes a single-family Cluster Residential component.



SECTION 7.2 DEFINITIONS, is amended by inserting, in alphabetical order, the following definitions:

Cluster Development - The grouping of buildings in order to conserve land and provide for innovation in the design of the project.

Cluster Residential – A Cluster Development of grouped single family lots.

SECTION 10 SCHEDULE OF DISTRICT REGULATIONS is amended as follows:

1. Subsection “10.12” is renumbered to be subsection “10.12(a) CD-MU Mixed Use”; and
2. A new subsection 10.12(b) is added as follows:

10.12(b) CD-MU-CR Mixed Use Cluster Residential

A. Purpose

The purpose of the Mixed Use Cluster Residential Conditional District is to permit flexibility in the Ordinance by providing for a mix of residential, commercial, and light industrial, including single family cluster residential uses to be developed in accordance with a unified development plan. These developments should be unified by distinguishable design features and provide pedestrian connections between all uses. Mixed use developments should provide a more efficient use of land while providing more on-site amenities and preserving open space. The mix of uses shall be designed to be mutually supporting so that traffic congestion is minimized and pedestrian circulation is enhanced.

B. Minimum Size

In order to qualify for a Mixed Use Cluster Residential District, the gross acreage for the development shall be a minimum of 50 acres and a maximum of 250 acres.



C. Maximum ~~Net Density and Built Upon Area~~ and Residential Density Allowed

~~Within a Mixed Use Cluster Residential district, the net density and built upon area for any portion of the development shall not exceed the requirements of the underlying watershed district as provided in the Watershed Protection Ordinance and identified on the most recently adopted "Watershed Protection Map of Chatham County, North Carolina".~~

To maintain a base level of watershed protection, the overall maximum built upon or impervious area for a Mixed Use Cluster Residential district shall be no greater than twenty-four percent (24%) of the total project area.

NOTE: This tracks CCO 6.4. Also, a maximum of 24% is the requirement of the Watershed Protection Ordinance for "WS-IV Watershed Areas."

Each Mixed Use Cluster Residential district shall be allowed a maximum overall density of no more than two (2) single family cluster residential units for each acre of gross land area in the project. Accessory units shall count as one half (1/2) a unit for the purposes of this calculation.

NOTE: This tracks CCO 6.3

D. ~~Net Land Area Computation~~

NOTE: With the change to have 24% maximum BUA apply to whole project this definition is no longer needed.



E.D. Permitted and Required Uses

The Mixed Use Conditional Zoning Cluster Residential district shall include a single-family Cluster Development component. [see Sections 109 and 303 Cluster Development of the Watershed Protection Ordinance] The other uses allowed within the Mixed-Use district may be selected from the permitted uses or conditional uses from the following districts: R-1 Residential district

O&I Office and Institutional District

NB Neighborhood Business District

CB Community Business District

RB Regional Business District

IND-L Light Industrial District

The site plan must show, and the final development must include, a single-family Cluster Development project and Open Conservation Space (see Watershed Protection Ordinance ~~section~~ see section 7.8 of the Chatham County Subdivision Regulations - Single Family Cluster Subdivision in a CD-MU-CR District), and uses from at least two (2) of the zoning districts listed above. Multi-Family Dwellings shall also be permitted in the mixed use section. Uses may be mixed within a building or within the development and the site plan must identify the location of the proposed uses.

NOTE: Conversation Space, as defined in both the Subdivision Ordinance and the Conservation Guidelines, includes both Open Space and Natural Space, and limits Open Space to 20% of the Conservation Space. This edit is to correct that mistake.

At a minimum, twenty percent (20%) of the total Built Upon Area (BUA) of the development must be occupied by or used primarily for non-residential uses, provided that ~~at no time shall~~ the cumulative amount of land ~~developed-designated~~ for non-residential purposes on the site plan shall not exceed the cumulative amount of land ~~developed-designated~~ for residential purposes.



NOTE: This language is from the CCO for a very large development where the commercial is far from the residential. The goal of keeping those ratios in balance is best established on the site plan. There is no reason for the developer and the County to be burdened with tying the time of construction and permitting to the ratio.

F. Location

~~A Mixed Use Cluster Residential Conditional District shall be allowed only in areas designated as Compact Residential Area or Community Center Area on the Chatham County Comprehensive Plan, Future Land Use and Conservation Plan.~~

NOTE: There were concerns and objections to this provision. Of course, the County will consider the Land Use Plan in determining re-zoning applications.

G.E. Cluster Area and Density

~~Single Family Cluster Development shall be that portion of the CD-MU-CR project dedicated to clustered single-family lots and Conservation Space as required by the Subdivision Ordinance, Sec. 7.8, open space area as provided in the Watershed Protection Ordinance, Sec. 303. The total number of single family residential lots shall not exceed two (2) dwellings per acre Net Land Area of the CD MU CR project.~~

NOTE:

- *Single family units/acre is moved to section C above.*
- *The Subdivision Text Amendment defines "Conservation Space, Natural Space and Open Space" and details the compositions and uses of those areas. The Watershed Ordinance's references to "vegetated or natural state, or open space," is not as specific. This edit is not substantive.*



H.F. Dimensional and Off-Street Parking Requirements

Standard dimensional and off-street parking requirements shall not apply. Proposed lot sizes, setbacks, building heights, and off-street parking must be specified on the site plan or accompanying text for a conditional rezoning application and be approved by the Board of Commissioners. In no circumstances shall a building have a height greater than sixty (60) feet.

I.G. Exterior Boundary Setbacks

A setback of one hundred (100) feet shall apply to all residential and non-residential buildings and structures along the exterior boundary where adjacent to a Residential District or a residential portion of a Conditional District or any existing residential property. A setback of fifty (50) feet shall apply where adjacent to non-residential districts, including non-residential portions of Conditional Districts; ~~or~~ any existing non-residential properties; or where adjacent to a public road right-of-way that is one-hundred (100) feet in width or more.

NOTE: This would apply where adjacent to very wide public roads, such as 15-501.

J.H. Signage

Any proposed signage shall not exceed the standards set forth in this Ordinance for the respective zoning district from which a use is taken. All signs shall use a coordinated color, style, and lettering scheme.



Watershed Ordinance Amendments

1. Section 302. Watershed Areas Described,

Subsection: (E) WS-IV Watershed Areas - Protected Area (WS-IV-PA),
(2) Density and Built Upon Limits [Pages 26-27],

is rewritten to read as follows:

- a. Single Family Residential--development shall not exceed one (1) dwelling unit per acre, as defined on a project by project basis, except within conservation subdivisions, **compact communities, mixed-use projects, or mixed-use cluster residential projects** that shall not exceed two (2) dwelling units per acre, as defined on a project by project basis. No residential lot shall be less than 40,000 square feet or 65,340 square feet for lots with individual wells and individual wastewater disposal systems, except within an approved cluster development (#6), compact community, conservation subdivision (#12), **or mixed-use development.**
- b. All Other Residential and Non-Residential--development shall not exceed twenty-four percent (24%) built upon area on a project by project basis. For projects without a curb and gutter street system, development shall not exceed thirty-six percent (36%) built-upon area on a project by project basis. In addition, in the portion of the WSIV PA draining to the state designated Cape Fear WSIV PA, non-residential uses may occupy ten percent (10%) of the PA with a seventy percent (70%) built upon area when approved as a special nonresidential intensity allocation (SNIA). The Watershed Administrator is authorized to approve SNIAs consistent with provisions of this ordinance and consistent with plans for the Moncure Megasite Employment Center in the PA, as referenced in the Conceptual Plan Rural Preservation and Targeted Employment, adopted July 15, 2013. Projects must be located within the designated Moncure Megasite Employment Center. Projects must minimize built-upon surface area, direct stormwater away from surface waters, and incorporate Best Management Practices to minimize water quality impacts. For the purpose of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed. No residential or nonresidential lot shall be less than 40,000 square feet, except within an approved cluster development (#6), compact community, conservation subdivision (#12), **or mixed-use development.**



Watershed Ordinance Amendments cont.

2. SECTION 109. General Definitions. [Page 11]

is amended by adding a definition as follows:

Mixed-Use Development: mixed-use development is characterized as pedestrian-friendly development that blends two or more residential, commercial, cultural, institutional, and/or industrial uses.

3. SECTION 109. General Definitions, “Cluster Development.” [Page 6] is amended by rewriting the definition to read as follows:

Cluster Development. The grouping of buildings in order to conserve land and provide for innovation in the design of the project. This term includes non-residential development as well as single-family residential subdivisions and multi-family developments that do not involve the subdivision of land. “Planned Residential Developments” and **“Mixed Use Cluster Residential Conditional Districts”** as provided for under the Chatham County Zoning Ordinance and “Planned Unit Developments,” as provided for under the Chatham County Subdivision Regulations, shall each be deemed to be Cluster Development under this Chatham County Watershed Protection Ordinance.

4. Section 303. Cluster Development is amended by rewriting it to read as follows:

Clustering of development is allowed in all Watershed Areas of the County under the following conditions:

- (A) Minimum lot sizes are not applicable to single family cluster development projects; however, the total number of **residential** lots shall not exceed the number of lots allowed for single family detached developments in Section 302. Built upon area or stormwater control requirements of the project shall not exceed that allowed by this ordinance for the watershed area in which the project is located. (#7,13)
- (B) All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow.
- (C) The remainder of the tract **(in a CD-MU-CR district, “tract” is the single-family residential portion of the district)** shall remain in a vegetated or natural state, **or be open space**. Where the development has an incorporated property owners association, the title of the open space area shall be conveyed to the association for management. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.



Subdivision Ordinance Amendments

7.8 Single Family Cluster Subdivision in a CD-MU-CR District

As an alternative to conventional layouts, Chatham County encourages the preservation of large, contiguous blocks of land, herein referred to as Conservation Space. Conservation Space (as defined in the Chatham County Conservation Subdivision Guidelines) shall consist of Open Space and Natural Space. When a single family Cluster Development, project voluntarily preserves Conservation Space in accordance with this Section, it shall comply with the following standards:

A. Conservation Space Requirement

A minimum of 40 percent of the project area shall be retained as Conservation Space for a conservation subdivision design. Land required to be protected under other regulatory provisions, such as riparian buffers and floodplain, are permitted to be included in the Conservation Space calculation.

B. Composition of Conservation Space

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

C. Connectivity of Conservation Space

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



Subdivision Ordinance Amendments cont.

D. Permitted Uses of Conservation Space

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

1) Conservation

Conservation of natural resources, archeological resources or historical resources

2) Agriculture

Existing and ongoing bona fide agriculture, horticulture, or silviculture, provided that all applicable best management practices are used to minimize environmental impacts.

3) Recreation

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

4) Stormwater Management

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

5) Utility Easements

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

6) Water, Septic, and Sewer Systems

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

7) Trails

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



Subdivision Ordinance Amendments cont.

E. Prohibited Uses of Conservation Space

(1) Use of Motor Vehicles

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

(2) Roads, Parking Lots and Impervious Surfaces

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

F. Ownership of Conservation Space

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

G. Management of Conservation Space

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

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



Subdivision Ordinance Amendments cont.

H. Legal Instrument for Permanent Protection

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

(1) Permanent Conservation Easement.

A permanent conservation easement in favor of either:

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

(2) Permanent Restrictive Covenant.

A permanent restrictive covenant for conservation purposes.

(3) Alternative Land Use Restriction.

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

I. Lot and Structure Placement

(1) Lot Size and Density

There is no minimum size for lots in a single family Cluster Residential subdivision within a CD-MU-CR; however, the lot size shall be adequate to provide for minimum setbacks and any required infrastructure or services. Density is limited by the Chatham County Watershed Protection Ordinance (Sec. 302) and the Chatham County Zoning Ordinance.



Subdivision Ordinance Amendments cont.

(2) Structure Placement.

a. Setbacks

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

b. Separation

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

(3) Lot Proximity to Open Space.

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

A. Private Driveway Easements

Private driveway easements may be used in place of public and/or private roads where proposed to provide access to two (2) or fewer lots. The minimum required easement width is 30 feet and shall have a centerline length of no more than 200 feet.

Proposed driveway easements should be clearly identified on all plans and plats with a description of what lots the easement is proposed to serve. Final Plats creating driveway easements must contain a note that conveys maintenance responsibility of the easement to the homeowners utilizing it to access their property. The note shall specifically state that the easement(s) must be maintained to allow clear passage for emergency response vehicles. Driveway easements are not subject to the requirements for public or private roads.



Subdivision Ordinance Amendments cont.

J. Public and Private Road Standards

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

K. Review and Approval

The single family Cluster Residential component of all CD-MU-CR projects will be reviewed as a major subdivision.

