

# Subdivision Regulations Amendments

December 20, 2021



# Background

- Members of the Environmental Review Advisory Committee and Planning Board met informally to discuss revisions to the conservation subdivision standards. Several conservation subdivisions have been submitted over the past few years and they thought it was time evaluate the effectiveness of the standards.
- The Environmental Review Advisory Committee reviewed the proposed amendments during their regular meeting on August 12, 2021, and the Planning Board on September 7, 2021.
- Watershed Protection and Planning staff also provided amendments to address issues that have been identified during the review of conservation subdivision applications.
- The Board of Commissioners reviewed the proposed amendments during their September 20<sup>th</sup> meeting and scheduled this public hearing.
- Planning Board review and recommendation on November 2, 2021

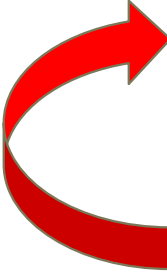
# Topics

- Appeals
- Lot Area (prohibit off-site septic systems)
- Environmental Impact Assessment Review
- Conservation Subdivision Option

Description	Amendment
<p>Include a process for applicants to appeal staff interpretations and decisions.</p>	<p><b><u>1.13 Variances and Appeals</u></b></p> <p><b>A. General</b>            Any <a href="#">applications for</a> variances to the Chatham County Subdivision Regulations <a href="#">or appeals of staff interpretations</a> shall follow the procedure outlined in Section 18 of the Chatham County Zoning Ordinance, <a href="#">except as otherwise provided in these regulations</a>.</p>
<p>Prohibit off-site septic systems for new lots. This will apply to major and minor subdivisions. <b><i>(The Planning Board recommends removing these items from consideration)</i></b></p>	<p><b><u>2.3 Meaning of Specific Words and Terms</u></b></p> <p><b>Lot Area (Useable)</b> - The area within the lot lines which is a contiguous <del>or non-contiguous</del> area suitable for a septic field, well, house and access. This area does not include <del>public right-of-ways, flood hazard areas, floodways, or stormwater devices and associated easements.</del> Riparian Buffer Areas may be used to meet useable lot area <del>measurement requirements and other development-related regulatory requirements based on property size</del> specified in Section 7.1B.</p> <p><del>-</del>  <b>Off Site</b> - Any <del>premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant requesting subdivision plat approval.</del></p> <p>6.4_Final Plat (B) <del>Features</del>  <b>(8)</b> The location, and width of all existing and proposed right-of-ways and easements, alleys, and other public ways, and riparian buffers if applicable. <del>Septic system easements shall show bearings, distances, and area.</del></p>

Appeals & Prohibiting Off-Site Septic Systems

# Environmental Impact Assessment Review

Description	Amendment
<p>Include the Environmental Review Advisory Committee as part of the EIA review process. <b><i>(The Planning Board recommends changing the order of the review so that ERAC reviews the EIA prior to the peer review consultant)</i></b></p>	<p><b>5.2 C (2)(b) Environmental Impact Assessment Review Process</b> An Environmental Impact Assessment is required to be submitted for all major subdivisions consisting of 50 or more lots, or which meet one of the other criteria established in Section 6.2(B) for submittal of an Environmental Impact Assessment. See Section 6.2(A).</p>  <ol style="list-style-type: none"><li>1. The applicant shall submit the Environmental Impact Assessment to the Watershed Protection Department for review.</li><li>3. The Watershed Protection Department will forward the Environmental Impact Assessment to an environmental consultant hired by the County for a peer review. The cost of this peer review shall be paid by the applicant prior to submittal of the First Plat to the Planning Department.</li><li><u>2. The peer review shall be forwarded to the Environmental Review Advisory Committee to review the adequacy of the EIA and the peer review of it. They shall have 45 days to complete their review.</u></li><li>4. Within 60 days, the <u>Environmental Quality Watershed Protection Department</u> shall forward a report to the applicant and Planning Department.</li></ol>

# Conservation Subdivision Amendments

Description	Amendment
<p>Require applicants to prepare the on-site inventory and fragmentation maps and have them approved prior to designing a conservation subdivision layout.</p>	<p><b><u>7.7 Conservation Subdivision—Alternative Standards for Development</u></b></p> <p>As an alternative to conventional layouts, Chatham County encourages the preservation of large, contiguous blocks of land, herein referred to as Conservation Space. Conservation Space shall consist of Open Space and Natural Space. When a project voluntarily preserves Conservation Space in accordance with this Section, a project can increase the number of units that would be allowed on the overall property by ten (10) percent. Calculation of the density bonus shall be based on the applicable underlying land use regulation(s) dictating allowable development density. <u>Prior to designing a layout for the site, the applicant must follow the steps outlined in The Chatham County Conservation Subdivision Guidelines for Conservation Space Selection to identify the conservation space, prepare the On-Site Inventory and Fragmentation Maps, and have those maps approved by the Watershed Protection Director or their designee. The On-Site Inventory and Fragmentation Maps must be approved by the Watershed Protection Director prior to submitting a Concept Plan application to the county. Failure to follow these steps will result in delays and require a redesign of the site.</u></p>
<p>No longer allow riparian buffers and floodplain to be included as part of the required 40% conservation space. <b><i>(The Planning Board recommends eliminating riparian buffers and floodplain from conservation space and not adding the deduction language)</i></b></p>	<p><b>A. Conservation Space Requirement</b></p> <p>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 <u>not permitted to be included in the Conservation Space calculation and must be deducted from the gross acreage.</u></p>
<p>Remove the provision allowing for a reduction in the 80% Natural Space requirement.</p>	<p><b>B. Composition of Conservation Space</b></p> <p>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, <del>unless it can be demonstrated that no practical alternative exists for preserving that amount of Natural Space.</del> See <u>The Chatham County Conservation Subdivision Guidelines for Conservation Space Selection.</u></p>

## Description

## Amendment

### D. Permitted Uses of Conservation Space

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

#### Conservation

Conservation of natural resources, archeological resources or historical resources

#### Agriculture

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

#### 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.

#### Stormwater Management

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

#### Utility Easements

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

#### ~~Water, Septic, and Sewer Systems~~

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

#### 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.

#### **(8) Community Gardens**

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

Revise the permitted uses in the conservation space.

- Remove the provision allowing for timber management in conservation space
- Clarify that stormwater management is only allowed in open space
- Clarify that utility easements are only allowed in open space
- Remove the provision allowing for off-site septic systems **(The Planning Board recommends allowing off-site septic systems in conservation subdivisions, except within natural space)**
- Add community gardens as allowable uses in open space

# Conservation Subdivision Amendments

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<p>Remove the provision allowing for an additional 5% density bonus for agricultural operations. This does not prohibit on-going agricultural operations.</p>	<p><del>J. <u>Reserved Agricultural Preservation Density Bonus</u></del>  <del>Conservation subdivisions proposed for the purposes of sustaining existing on-site bona fide agricultural operations are entitled to a five (5) percent increase in permitted density (this in addition to the ten (10) percent density bonus). Ideally, residential lots in such developments should be located in areas less suitable for agricultural production, while prime farmland areas of the property should be reserved as Conservation Space. It is strongly recommended that development parcels be located where agricultural operations do not interfere with the safety and/or well being of potential future residents. Upon completion such agricultural uses, all lands previously occupied by those uses shall be preserved in perpetuity as natural space, and shall not qualify for future development.</del></p>
<p>Add a 50-foot undisturbed buffer around the entire project boundary. This area can be included in calculating the 10% density bonus.</p>	<p><b><u>K. Lot Size, and Structure Placement, and Perimeter Buffer</u></b>  <b>(2) Structure Placement.</b>  <i>a. Setbacks</i></p> <p>Structures within a conservation subdivision should be placed as closely to internal roads as practical. The reviewing agency may reduce the front yard setback to a minimum of five (5) feet when necessary. In such cases, the reviewing agency must take into consideration sound engineering, public safety concerns and community character when applying standards. Vegetative buffers should be left between new development and existing residential development <del>where possible.</del></p> <p><b><u>(4) Perimeter Buffer</u></b>  <u>A 50-foot undisturbed buffer shall apply to the entire project boundary and shall remain undisturbed. Road and utility crossings are permitted but must be designed to minimize impacts to the buffer and cannot run parallel within the buffer. The buffer area can count towards the density bonus calculation, except in areas where the perimeter buffer overlaps an area that is excluded from the density bonus calculation.</u></p>



Description	Amendment
Establish the steps in preparing the on-site inventory and fragmentation maps.	<p><u>A. Conservation Subdivision Instructions</u>  <u>Steps 1-6 are for Applicants and Consultants to be used in conjunction with the other provisions included in these guidelines.</u>  <u>Please be advised that two maps are required to be reviewed and approved by the Watershed Protection Director prior to your Concept Plan submittal.</u>  <u>These maps and review process are separate from the Environmental Impact Assessment. Conservation space submittals cannot be bundled with the Environmental Impact Assessment and should be provided per the process below.</u></p>

# Conservation Subdivision Guidelines for Conservation Space Selection Amendments

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Description	Amendment
<p>Specific steps in preparing the on-site inventory and fragmentation maps and submitting them to the Watershed Protection Director for review and approval.</p>	<p><b>1. Identify Conservation Space-</b> <u>Site surveys must be conducted to identify features/areas for Primary and Secondary Natural Space selection. This includes, but is not limited to, the NC Natural Heritage Program (NCNHP) classification of State Natural Heritage Natural Areas and Element Occurrences. <b>Contact NCNHP directly to schedule the site evaluation.</b> Obtain the report and Element Occurrence data for use in mapping exercise below.</u></p> <p><b>2. Generate Maps-</b> <u>Data gathered through records research, GIS, and site reports should be compiled to generate maps that are the foundation for the planning of the development envelope and overall site design. This involves a thorough reading and implementation of the concepts laid out in the guidelines.</u></p> <p><u><b>Fragmentation Map</b> drives general conservation selection (i.e. surrounding landscape and potential connections between conservation spaces in a broader context).</u></p> <p><u><b>On-site Inventory Map</b> is the driving decision making tool for conservation space selection and the areas set aside for development. <b>THE SITE LAYOUT CANNOT BE DESIGNED BEFORE THE ON-SITE INVENTORY MAP.</b></u></p> <p><b>3. Design the Site-</b> <u>The layout should reflect the Onsite Inventory Map and design the development envelope in areas that are not Primary or Secondary Natural Space (in order listed) or needed to create connections to Natural Space when more than 40% of the site qualifies as Natural Space. Keep in mind that septic fields should only be shown in the development envelope.</u></p> <p><b>4. Provide Maps and Analysis-</b> <u>Schedule a pre-submittal meeting with the Watershed Protection Director to demonstrate consideration of conservation space selection is in keeping with the guidelines. <i>If the Director agrees the layout is ready for formal review, proceed to step five.</i></u></p>

Description	Amendment
<p>Specific steps in preparing the on-site inventory and fragmentation maps and submitting them to the Watershed Protection Director for review and approval.</p>	<p><b>5. Submit-</b> <u>Provide the Fragmentation and On-site Inventory maps and the site plan to the Watershed Protection Director for review and approval at least 60 days prior to Concept Plan submittal.</u></p> <p><b>6. Appeal-</b> <u>If no staff approval is issued, an appeal can be submitted as described in the Subdivision Regulations.</u></p> <p><u>Note: The data sets required for the Fragmentation and On-site Inventory Maps are extensive. It is recommended that multiple exhibits be used in aggregate, especially for the On-site Inventory.</u></p>
<p>Remove the example of allowing wastewater disposal within the required open space.</p>	<p><u>B. Conservation Space Identification and Mapping Provisions</u>  <u>Conservation Space Required</u>  Conservation space is comprised of two categories of space to be preserved — Open Space and Natural Space. Open space, as defined in the Subdivision Ordinance, allows amenities such as recreational uses and some non-intrusive common uses <del>(e.g. when land application is not the preferred means of wastewater disposal, community septic systems are allowed in Open Space areas)</del>. Open space should be located as close to proposed development as practicable, taking into account considerations such as public safety and soil suitability. Natural space is unimproved land in its naturally occurring state, or preserved to regenerate to in its naturally occurring state, unaltered by human activity, and preserved to maintain or improve the natural, scenic, ecological, cultural, hydrological, or geological values of an area.</p>
<p>Remove the reference to off-site septic systems in open space. This section still allows for land application of treated wastewater from wastewater treatment plants</p>	<p><u>1.1) Open Space:</u> Regarding the required minimum 40% Conservation Space for a Site, a maximum of 8% of the site (20% of Conservation Space) shall consist of Open Space.</p> <ul style="list-style-type: none"> <li>• Areas to Place in Open Space</li> <li>• Active and/or Passive Recreation.</li> <li>• <del>Community Septic Systems, or Sewer system</del> land application areas <u>(excluding septic systems)</u>.</li> <li>• Other Shared Infrastructure Such as Community Wells</li> </ul>

# Conservation Subdivision Guidelines for Conservation Space Selection Amendments

# Questions?



**Research &  
Discussion**



**Prepare  
amendments**



**Public hearing**



**Planning Board  
Review**



**Adoption**



**Implementation**

Conservation Sub. Name	First Plat Approval Date	Total Acreage	Required Conservation Area (acres)	Buffers and Floodplain in Conservation Space (acres)	Total Conservation Space (acres)	Max. number of lots allowed with density bonus	Total number of lots approved	Water Source	Private Sewer (PS) or Septic
US Steel	6/16/2014	131.38	53	29.95	91	127	127	County	PS
Retreat at Haw River	8/18/2014	646.13	258.45	34.8	427.8	422	393	County	PS
Ryan's Crossing	6/16/2018	114.85	45.9	34.2	46.55	96.6	61	County	Septic
Firmage	2019 ( Administrative)	20	7.87	2.359	8.02	19	15	County	PS
Morgan Ridge Ph. 2	11/18/2019	80.25	32.1	not provided	41.62	58	36	Community Well	Septic
McBane	8/16/2021	161.97	64.97	not provided	56.75	149	149	Aqua	PS
Savannah Ridge	pending	150.58	60.23	not provided	81.93	165	158	County	Septic
The Conservancy at Jordan Lake	pending	1262.88	524	47.2 (not clear if this includes buffers)	824	1521	1521	County	PS
Pyewacket	pending	139.63	51.35	not provided	62.4	152	92	Community Well	Septic