

**TOWN OF ZEBULON
JOINT PUBLIC HEARING AGENDA
BOARD OF COMMISSIONERS AND PLANNING BOARD
October 12, 2020
7:00pm**

I. CALL TO ORDER

II. PUBLIC HEARING

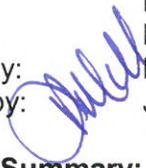
A. *QA-2020-03-A. Text amendment to Section 6.2 of the UDO:* A request from staff to amend section 6.2 of the UDO to regulate the amount and timing of grading within Conservation Subdivisions.

B. *QA-2020-03-B. Text amendment to Section 6.8.1 of the UDO:* A request from staff to amend section 6.8.1 of the UDO to require sidewalks on at least one side of the road within Conservation Subdivisions.

III. ADJOURNMENT

STAFF REPORT
Quarterly Text Amendments (QA 2020-03-A)
Mass Grading
Joint Public Hearing October 12, 2020

Topic: Quarterly Text Amendment 2020-03-A Mass Grading in Conservation Subdivisions

Speaker: Michael J. Clark, AICP, CZO, Planning Director
From: Michael J. Clark, AICP, CZO, Planning Director
Prepared by: Michael J. Clark, AICP, CZO, Planning Director
Approved by:  Joseph M. Moore II, PE, Town Manager

Executive Summary:

The Board of Commissioners and Planning Board will consider a text amendment to prohibit mass grading within Conservation Subdivisions.

Background:

Staff has received several questions from developers regarding Conservation Subdivisions. This development option is intended to preserve at least 50% of the land areas by allowing other concessions. Staff discovered that the current regulations still allow a developer to clear and grade most areas of a site disrupting the areas that are intended to be preserved. Therefore, staff is proposing amendment restricting the areas and timing of grading.

Policy Analysis:

This proposed UDO text amendment is consistent with the purpose and intent of Conservation Subdivisions (UDO 6.2.1) to allow for development of smaller lots while conserving land, including areas with mature deciduous trees, and preserving the existing environmental, natural, and cultural resources. This amendment addresses a land use concern noted as a *Growing Smart* goal in **Town of Zebulon: Vision 2030 Strategic Plan**.

Fiscal Analysis:

Mass grading reduces the front-end cost for developers, but produces higher long-term costs for the Town by increasing down-stream flooding and additional maintenance costs of storm water management systems.

Conversely, conserving land, including areas with mature natural vegetation, promotes the creation of a higher-valued development product that grows in tax value over time.

Discussion:

The discussion before the Planning Board and Board of Commissioners is whether to establish regulations that would limit the amount and timing of grading within a conservation subdivision.

Staff Recommendation:

Following public comment, Staff recommends approval of the proposed amendments to Section 6.2.4.1 and Section 6.2.5.C.4.a of the UDO.

Attachments:

1. UDO Section 6.2.

6.2. CONSERVATION SUBDIVISION

6.2.1. PURPOSE AND INTENT

The purpose and intent of this section is to provide landowners in the rural and suburban portions of the Town a development option that provides additional development flexibility to build on smaller lots when additional open space set-asides are provided, and the development is designed and located in a way that protects rural character, agricultural activities, or natural and historic features on the site. This is done in order to:

- A. Conserve open land, including those areas containing productive agricultural soils, unique and sensitive natural features such as floodplains, wetlands, river and stream corridors, areas with mature deciduous trees, and watersheds;
- B. Promote existing rural character particularly in areas visible from major roadways in the Town;
- C. Retain and protect existing environmental, natural, and cultural resources;
- D. Create a linked network of open lands; and
- E. Provide reasonable economic use of the land.

6.2.2. APPLICABILITY

A. TYPE OF DEVELOPMENT

This conservation subdivision option shall be limited to development of single-family detached residential dwellings on individual lots in subdivisions of more than five lots. The conservation subdivision option shall not be available for any other form of development or use type.

B. WHERE ALLOWED

Single-family detached residential subdivisions of more than five lots in the R1, R2, and R4 districts may be developed as a conservation subdivision, in accordance with the standards in this section.

C. WHERE PROHIBITED

The conservation subdivision option is not available for use in the R6, RMF, OI, or other commercial districts.

6.2.3. PROCEDURE

Development utilizing the conservation subdivision option shall be approved as a preliminary plat in accordance with the procedures and standards in [Section 2.2.14, Preliminary Plat](#), after approval of a conservation and development plan in accordance with this section.

A. CONSERVATION AND DEVELOPMENT PLAN

Prior to review of an application for preliminary plat for a conservation subdivision, an applicant shall have a conservation and development plan for the land reviewed and approved, or approved with conditions by the Planning Director in accordance with this section and the standards of [Section 6.2.4, Conservation Subdivision Standards](#), and [Section 6.2.5, Delineation of Conservation and Development Areas](#).

B. CONSERVATION AND DEVELOPMENT PLAN REQUIREMENTS

1. STEP 1—SITE ANALYSIS MAP

The applicant shall prepare a site analysis map that provides information about existing site conditions and context, and that analyzes existing conditions both on the land proposed for the development site and on land within 500 feet of the site, and submit the site analysis map to the Planning Director. It is the intent of this section that the information required to be presented in the site analysis map be produced primarily from existing sources, maps, in order to ensure the process is economical for the applicant.

2. STEP 2—SITE INSPECTION

After receipt of the site analysis map, the Planning Director shall schedule a site inspection of the land with the applicant. The applicant or the applicant's representative shall attend the site inspection with a Town staff member. The purpose of this site visit is to:

- a.** Familiarize the staff with the existing site conditions and natural and historic features of the site;
- b.** Identify potential site development issues, including the best location for the development to ensure its visibility from surrounding areas and major roadways is minimized; and
- c.** Provide an opportunity to discuss site development concepts, including the general layout of conservation areas and potential locations for proposed structures, utilities, streets, and other development features. Comments made by the staff during the site inspection shall be interpreted as being only suggestive. No official decision on the conservation and development plan shall be made during the site inspection.

3. STEP 3—CONSERVATION AND DEVELOPMENT AREAS MAP

Based on the site analysis map and the information obtained during the site inspection, the applicant shall prepare a conservation and development areas map that depicts proposed primary conservation areas, secondary conservation areas, and development areas, in accordance with Section 6.2.5, Delineation of Conservation and Development Areas.

4. STEP 4—CONSERVATION AND DEVELOPMENT PLAN

Based on the site analysis map, the information obtained during the site inspection, and the conservation and development areas map, the applicant shall prepare and submit to the Planning Director a conservation and development plan. The conservation and development plan shall include the following:

- a.** A site analysis map;
- b.** A conservation and development areas map; and
- c.** A preliminary site improvements plan, showing proposed site development, including utilities, streets, other development features, buffers (if applicable), and lot lines located in the proposed development area(s).

C. REVIEW OF CONSERVATION AND DEVELOPMENT PLAN

The Planning Director shall review the conservation and development plan in accordance with the procedures and requirements of Section 6.2.4, Conservation Subdivision Standards, and Section 6.2.5, Delineation of Conservation and Development Areas.

D. REVIEW AND APPROVAL OF CONSERVATION SUBDIVISION

Following review and approval or approval with conditions of the conservation and development plan by the Planning Director for a preliminary plat of the conservation subdivision shall be submitted and reviewed in accordance with Section 2.2.14, Preliminary Plat.

6.2.4. CONSERVATION SUBDIVISION STANDARDS

A conservation subdivision shall comply with the following standards:

A. LOCATION

Conservation subdivisions shall be configured to minimize their visibility from adjacent lands and major roadways.

B. MINIMUM PROJECT SIZE

Conservations subdivisions shall be at least 10 acres in area.

C. REQUIRED CONSERVATION AREA

1. The required conservation area shall occupy at least 50 percent of the total acreage of the conservation subdivision site, but nothing shall limit it from occupying more than 50 percent of a conservation subdivision site.
2. The conservation area shall be considered open space set-aside subject to the applicable standards in Section 5.7, Open Space.

D. MAXIMUM RESIDENTIAL DENSITY

A conservation subdivision shall be limited to the maximum density for a conservation subdivision in the zoning district in which it is located. Nothing shall prevent a conservation subdivision from increasing the maximum allowable residential density in accordance with Section 5.12, Sustainability Incentives.

E. DIMENSIONAL REQUIREMENTS

Conservation subdivision lots shall comply with the dimensional standards for the zoning district where located. Conservation subdivisions in a PD district shall comply with the dimensional requirements specified in the PD Master Plan.

F. SETBACKS

1. Conservation subdivision lots shall comply with the setback requirements for the zoning district where located.
2. Conservation subdivision lots in the PD district shall comply with the setback requirements specified in the PD Master Plan.
3. Lots in a conservation subdivision shall comply with required setbacks from streets, wetlands/surface waters, or other protected natural areas.

G. MAXIMUM LOT COVERAGE

1. Conservation subdivision lots shall comply with the maximum lot coverage requirements for the zoning district where located.
2. Conservation subdivision lots in the PD district shall comply with the maximum lot coverage requirements specified in the PD Master Plan.

H. ON-SITE WASTEWATER

With approval from the appropriate county health department, individual septic systems and drain lines may be located within the conservation area, provided:

1. Easements shall be recorded showing the location of systems within conservation area;
2. Restrictive covenants shall provide for access, maintenance, and upkeep of systems located in the conservation area; and
3. All septic systems shall be operated in compliance with State and local regulations.

I. GRADING

In order to promote land development practices that maximize the preservation of natural vegetation, minimize disturbance to vegetation and soils, limit alteration of the natural topography, minimize surface water and ground water runoff and diversion, minimize the need for additional storm drainage facilities, reduce sedimentation in surrounding waters and promote land development and site planning practices that are responsive to the Town's scenic character without preventing the reasonable development of land; the initial clearing and grading of all conservation subdivisions shall be limited to dedicated public rights-of-way and easements for the installation of streets, utilities, and other infrastructure. All grading activities shall be done in accordance with all applicable federal, state and local laws, rules and regulations, including those pertaining to air and water pollution and noise control.

1. Infrastructure: Grading for infrastructure improvements (streets, sidewalks, curb, gutter, water, sewer, utilities, stormwater, spoil and borrow areas, etc.) shall be phased according to the Master Plan. Prior to proceeding to another phase, the developer shall stabilize the present phase with adequate ground cover sufficient to restrain erosion and have all infrastructure installed.

2. [Lots: Grading of individual lots within any conservation subdivision shall not begin without having first obtained a building permit from the Town of Zebulon and shall be limited to those areas comprising the building footprint, driveway and a minimal area surrounding the building footprint to accommodate construction equipment.](#)

~~3.—~~

6.2.5. DELINEATION OF CONSERVATION AND DEVELOPMENT AREAS

The conservation area and development area on the conservation and development areas map shall comply with the following standards:

A. PRIMARY CONSERVATION AREAS

1. FEATURES TO BE PRESERVED

The following features shall be located and delineated on the conservation and development areas map, and shall be preserved in the following priority order as primary conservation areas:

- a. Areas with existing mature trees around the perimeter of the site;
- b. U.S. Army Corps of Engineers designated 404 wetlands;
- c. Riparian buffers and other lands within 50 feet of estuarine or other surface waters;
- d. Areas with impermeable soils; and
- e. Habitat utilized by endangered or threatened species or designated Natural Heritage Areas.

2. AMOUNT TO BE PRESERVED

All areas occupied by features comprising a primary conservation area shall be set aside and reserved for conservation purposes in accordance with the following standards:

a. PRIMARY CONSERVATION AREA IS LESS THAN MINIMUM REQUIRED

In cases where the geographic area occupied by all features comprising the primary conservation area is less than the minimum required conservation area, then all lands comprising the primary conservation area shall be set aside.

b. PRIMARY CONSERVATION AREA EXCEEDS THE MINIMUM REQUIRED

- i. In the event the geographic area of all features identified and prioritized as the primary conservation area results in a primary conservation area exceeding the conservation area requirement, priority for retention shall be given to the highest quality portion of the features to be conserved. (For example, conservation of the first type of prioritized features constitute 47 percent of a site, and the next prioritized feature consists of five percent and the minimum required conservation area is 50 percent of the site area, the applicant may identify which portions of the features exceeding the 50 percent conservation area requirement will be designated for conversion to development area).
- ii. Development on lands made available for conversion to development area shall be in accordance with the standards in this Ordinance.

3. ALLOWABLE USES

Uses located within a primary conservation area shall be limited to:

- a. Pervious pedestrian trails, walkways, and boardwalks;
- b. Above ground and below ground public utilities and associated easements, provided no feasible alternative exists;
- c. Street or driveway crossings, provided such crossings do not violate this Ordinance, or other State or federal laws;
- d. Stormwater management systems, where no practicable alternative exists; and
- e. Docks and other water-dependent features, as allowed in this Ordinance.

B. SECONDARY CONSERVATION AREAS

1. FEATURES TO BE PRESERVED

In addition to primary conservation areas, the conservation and development areas map shall also identify secondary conservation areas, which shall be preserved in the following priority order:

- a.** Historic, archeological, and cultural resources;
- b.** Prime agricultural lands, including existing pastures (whether in use or otherwise);
- c.** Existing and mature woodland forests, natural fields, and meadows (especially those greater than five acres);
- d.** Scenic corridors and views; and
- e.** Areas that could serve to extend existing greenways, trails, parks, or recreation areas.

2. AMOUNT TO BE PRESERVED

All areas occupied by features comprising a secondary conservation area shall be set aside and reserved as a part of the conservation area in accordance with the following standards:

a. PRIMARY CONSERVATION AREA OCCUPIES MORE THAN THAT REQUIRED

In the event that the geographic area set aside as the primary conservation area is more of the required conservation area, no additional lands occupied by secondary conservation features shall be required to be included in the conservation area.

b. PRIMARY CONSERVATION AREA OCCUPIES LESS THAN THAT REQUIRED

In the event the geographic area set aside as the primary conservation area is less than the required conservation area, then lands containing secondary conservation features shall also be set aside as part of the conservation area in priority order.

3. ALLOWABLE USES

Uses located within a secondary conservation area shall be limited to:

- a.** All uses allowed in a primary conservation area;
- b.** Uses allowed in the Agricultural Use classification in Table 4.2.3, Principal Use Table;
- c.** Individual water supply and septic systems;
- d.** Stormwater management facilities;
- e.** Required drainage or other utility easements; and
- f.** Mitigation of development activities, including restoration of disturbed or degraded areas to enhance habitat and scenic value.

C. OWNERSHIP OF CONSERVATION AREAS

1. LANDOWNER OR ASSOCIATION

A conservation area shall be owned jointly or in common by the owners of the development or through a recognized homeowners' or property owners' association, which shall be established in accordance with Section 6.5, Owners' Associations.

2. NONPROFIT ORGANIZATION

The landowners may decide to convey a conservation area to a nonprofit organization such as a land trust or land conservancy for management and maintenance if the Town is provided adequate assurance the area will be properly managed and maintained.

3. DEDICATED TO TOWN OR OTHER PUBLIC AGENCY

In some cases, certain lands designated as conservation areas, such as greenways, may be dedicated to the Town, a nonprofit organization, or other public agency during the development review process, at the landowner's discretion. If offered by the landowner, the Town Council shall determine whether that land is appropriate for dedication to the Town or other public agency.

4. DEVELOPMENT AREAS

After identifying the primary and secondary conservation areas, the development area shall be identified. It is the area within which development may occur, and shall include the area within the site where:

- a. Any clearing or grading activities will take place [in accordance with Section 6.2.4.1](#);
- b. Ingress and egress will be located;
- c. Individual or community wells and septic systems may be located (if not located within the secondary conservation area);
- d. Streets, utilities, and other similar structures will be located; and
- e. All allowable uses may be located.

6.2.6. EVALUATION CRITERIA FOR CONSERVATION SUBDIVISION LAYOUT

- Conservation subdivisions shall be configured to:
- A.** Protect and preserve all floodways and wetlands;
 - B.** Preserve and maintain mature woodlands, existing fields, pastures, meadows and orchards and creates sufficient buffer areas to minimize conflicts between residential and other uses;
 - C.** Locate development outside of prime agricultural soils, to the maximum extent practicable;
 - D.** Ensure the appearance of development is minimized, to the maximum possible extent;
 - E.** Design around existing hedgerows and tree lines between fields or meadows;
 - F.** Leave scenic views and vistas unblocked or uninterrupted, particularly as seen from streets;
 - G.** Avoid siting new construction on prominent rises or highly visible areas by taking advantage of lower topographic features;
 - H.** Protect wildlife habitat areas of species listed as endangered, threatened or of special concern by NCDEQ;
 - I.** Preserve sites of historic, archaeological, or cultural value (including spring houses, barn foundations, cellar holes, earthworks, burial grounds and similar features);
 - J.** Include a pedestrian circulation system designed to assure that pedestrians can walk safely and easily on the site, between properties and activities or special features within the neighborhood open space system; and
 - K.** Consolidate open space into areas that are contiguous, to the maximum extent practicable.

STAFF REPORT
Quarterly Text Amendments (QA 2020-03-B)
Sidewalks
Joint Public Hearing October 12, 2020

Topic: Quarterly Text Amendment 2020-03-B Sidewalks in Conservation Subdivisions

Speaker: Michael J. Clark, AICP, CZO, Planning Director
From: Michael J. Clark, AICP, CZO, Planning Director
Prepared by: Michael J. Clark, AICP, CZO, Planning Director
Approved by:  Joseph M. Moore II, PE, Town Manager

Executive Summary:

The Board of Commissioners and Planning Board will consider a text amendment to require sidewalks on at least one side of the road within Conservation Subdivisions.

Background:

Staff has seen in increased interest in conservation subdivisions which are intended to preserve at least 50% of the land area by allowing for concessions. However, one such concession conflicts with the 2030 Strategic Plan as sidewalks are currently not required in Conservation Subdivisions. Therefore, staff is proposing an amendment to require sidewalks on at least one side of the roads within conservation subdivisions.

Policy Analysis:

This proposed UDO text amendment is consistent with the *Growing Smart* Focus Area and Goals of the **Town of Zebulon: Vision 2030 Strategic Plan** as furthers the Town's walkability initiatives. Furthermore, the UDO requires sidewalks in most other places as a way to provide for safe pedestrian access throughout the Town.

Fiscal Analysis:

Failure to approve the proposed amendment may result in the Town paying to install sidewalks within these residential neighborhoods at a later date to establish safe method of pedestrian travel.

Discussion:

The discussion before the Planning Board and the Board of Commissioners is whether to require sidewalks on at least one side of the streets within a Conservation Subdivision.

Staff Recommendation:

Following public comment, Staff recommends approval of the proposed amendments to Section 6.8.1 of the UDO.

Attachments:

1. UDO Section 6.8.1.

6.8.1 LOCATION

Sidewalks are required in accordance with the Town's Pedestrian Plan and the following standards:

A. BOTH SIDES OF THE STREET

1. Sidewalks shall be provided along both sides of all streets in the residential, mixed-use, and NC, GC, and HC districts.
2. Sidewalks shall be provided along both sides of all principal or minor arterial streets, regardless of the zoning district where located.

B. ONE SIDE OF THE STREET

1. Sidewalks, at a minimum, shall be required on one side of the street in the LI, IC, and HI districts.
2. When sidewalks are required on one side of the street, they shall generally be located on the side of the street to best continue existing sidewalk networks, if present.
- 2.3. On local streets within a conservation subdivision;
- 3.4. Where there is no clear preferable street side for the placement of a sidewalk, the sidewalk shall be placed on the street side where it is least likely to have a negative impact on stormwater management, in the opinion of the Planning Director.

C. NO SIDEWALKS REQUIRED

No sidewalks shall be required in the following locations:

1. In the R1 district;
2. ~~Within a conservation subdivision;~~
- 3.2. Along alleys and accessways to individual lots not served by a street;
- 4.3. Where an existing or proposed all-weather surface trail or pedestrian pathway can provide an equivalent level of pedestrian circulation; and
- 5.4. In cases where environmental or topographic conditions make required sidewalk provision impossible, an alternative design shall be considered by the Planning Director.