COLUMBUS COUNTY BOARD OF COMMISSIONERS
SUBDIVISION REGULATIONS ORDINANCE WORKSHOP

Thursday, April 20, 2006
6:00 P.M.

The Honorable Columbus County Commissioners met on the above stated date and at the above stated time in the Economic Development Conference Room in the Administration Building, located at 111 Washington Street, Whiteville, North Carolina, for the purpose of conducting a joint workshop with the Columbus County Planning Board, on the Columbus County Subdivision Regulations Ordinance.

COMMISSIONERS PRESENT:
Kipling Godwin, **Chairman**
Amon E. McKenzie (Arrived: 7:45 P.M.)
James E. Prevatte

APPOINTEES PRESENT:
June B. Hall, **Clerk to the Board**

COMMISSIONERS ABSENT:
Bill Memory
Lynwood Norris
Sammie Jacobs
David L. Dutton, Jr., **Vice Chairman**

APPOINTEES ABSENT:
Steven W. Fowler, **County Attorney**
Roxanne Coleman, **Finance Officer**
Jimmy Varner, **Interim County Manager**

PLANNING BOARD MEMBERS PRESENT:

J.B. Evans, Chairman
Bill Ashley
James Register
Al Leonard
Stevie Cox, Columbus County Planning Director

FINAL REVIEW of REQUESTED CHANGES to the "DRAFT 2 - SUBDIVISION REGULATIONS ORDINANCE":

Stevie Cox, Columbus County Planner, stated he had met with Tom King, AICP,CZO, Community Development Planner II/Senior Planner, to discuss the recommended changes to the Subdivision Regulations Ordinance that were made during the workshops that were conducted.

Mr. Cox stated that Mr. King did make the changes that he could and did not make the changes that he thought did not need to be made, and/or the state would not permit.

The requested changes made and/or not made, are as follows:

Requested Changes Made:

1. A preamble has been included in the document that outlines what the regulations are, what they do, and why they are needed.

2. Section 1.13 (Uses Permitted) – Clarified that the proposed regulations do not affect the development of manufactured/mobile home parks or recreational vehicle (RV) parks or campgrounds.

3. Sections 2.5 (Appeal from Decision of Subdivision Administrator), and 2.6 (Deviation from Regulation Standards) – Board of Adjustment, rather than Planning Board, designated as hearing board to review and decide these cases.

4. Section 2.9.9 (Civil Penalty) – The regulations, as originally proposed, stated that a civil penalty of $500.00 will be assessed daily against persons violating the proposed Ordinance. This penalty would be assessed after an initial notice of violation was issued and opportunities to correct the violation given. Civil penalties are not the only enforcement mechanism given in the proposed Ordinance.

   Per our discussion, a civil penalty assessment schedule has been created as follows: 1st offense = $500.00, 2nd offense = $750.00, 3rd and subsequent offenses = $1,000.00 per day (including unpaid assessed penalties for the 1st and 2nd offenses).

Also, the "County Manager or his/her designee)" is no longer required to participate in the settlement of claims related to the assessment of civil penalties. The Subdivision Administrator and County Attorney are still required in the settlement process.

5. Minor Subdivisions – Private roads constructed to County standards are now permitted to serve lots. The previous version of the Ordinance required all lots in minor subdivisions to have direct frontage on an existing public street with use of shared driveways in certain instances.

   Section 3.7.7 (now 3.6.7) (Limitations on Use of Minor Subdivision Procedure) has been revised to state that the minor subdivision review procedure cannot be used on the same parent tract of land a second time in any 3-year period, as opposed to any 5-year period, as recommended by the Planning Board.

   Also, with the newly created provision for a family subdivision, a second limitation on the use of the minor subdivision procedure is needed to prevent abuse of these processes. The additional limitation on use of the minor subdivision procedure is that it cannot be used on any parent tract where the family subdivision procedure has been used in the past, nor on any lot created through the family subdivision procedure. The reasons for the limitations are to ensure that the major subdivision process is not avoided, and that large subdivisions are not created piecemeal through unplanned, smaller land divisions that are will deprive the County of adequate roads and infrastructure.

6. Family Subdivisions – Section 3.7 (Family Subdivision Approval Procedure) added. Up to 8 lots, including the residual acreage may be created through the family subdivision process. The lots may be accessed by a private road constructed to County standards, or may have frontage on an existing public road with use of common driveways in certain instances. The review process is the same as for minor subdivisions (Subdivision Administrator sketch plan and final plat review and approval).

   Limitations on use of the family subdivision procedure are as follows:

   a. The provision can only be used once on any parent tract of land. It cannot be used on a parent tract where a minor or family subdivision has occurred, or on any lot created through the minor or family subdivision process.

   b. The property owner requesting to use the process must submit evidence (recorded deed) that they have owned the property for a period of more than 5 years prior to the filing of the application for review.

   c. The deed(s) of conveyance of the lots to family members must be recorded within 6 months of final plat approval.

   d. If a grantee of a lot(s) created through the family subdivision process sells that lot(s) within 5 years after the date of the final plat approval, it shall be deemed that the division was created to circumvent the subdivision regulations, and the grantor and grantee will be subject to the enforcement provisions of the regulations.

7. Section 3.8 (Approval Procedures for Major Subdivisions) – The proposed regulations, as originally written, required that the Planning Board have review and decision authority regarding major subdivision sketch plans and preliminary plats, with the Subdivision Administrator signing the final plat for recording. An informal neighborhood information meeting held with the applicant, Subdivision Administrator, and surrounding property owners, was required at the sketch plan stage. The review and decision process, as rewritten, is as follows:

   a. Sketch plan submitted to the Subdivision Administrator for review. Plan submitted to reviewing agencies for comments. An informal neighborhood information meeting scheduled with applicant, Subdivision Administrator, and surrounding property owners to discuss proposal. No official approval given at this point.

   b. Preliminary plat submitted for review. Subdivision Administrator reviews plat for general adherence to submitted sketch plan, and specific comments/requirements submitted by review agencies. Report prepared for presentation to Planning Board and Board of Commissioners.

c. Preliminary plat reviewed by Planning Board and Board of Commissioners at jointly held public hearing. Preliminary plat referred to Planning Board for recommendation.

d. Planning Board holds meeting on submitted preliminary plat and makes recommendation to be forwarded to Board of Commissioners.

e. Board of Commissioners receives Planning Board's recommendation on preliminary plat, and makes decision to approve, approve with conditions, or deny preliminary plat.

f. If approved, final plat(s) submitted to Subdivision Administrator for review regarding consistency with approved preliminary plat. Subdivision Administrator signs final plat(s) for recording.

8. Certificates to Appear on Minor, Family, and Major Subdivision Final Plats - A certificate was added regarding the proposed method of solid waste disposal that must be used by subdivision residents (e.g., if a County operated solid waste disposal collection service is available in an area where a subdivision is created, the residents must use that service for solid waste disposal). This certificate provides record notice of this requirement. It is required on all subdivision final plats (minor, family, and major).

   Another certificate was added related to private road disclosure and maintenance.

9. Section 4.3.2 (Lot Layout), Paragraph E – The ordinance, as previously written, required that all property lines be surveyed to the edge of the public road right-of-way, rather than to the center of the right–of-way. No private roads were permitted to serve subdivided lots; all streets were to be dedicated and built as public.

   The requirement that lot lines be surveyed to the edge of the public road right-of-way still stands where a public road (existing or proposed) is to serve as access to lots. However, where a private road is to serve as access to lots, the property lines may either be surveyed to the center of the private road right-of-way or to the edge of the right-of-way at the subdivider's discretion.

   A simple road maintenance agreement is required in cases where lot lines are surveyed to the center of the private road right-of-way. A homeowners association must be created where lots accessing a private road are to be served by a private road where lot lines are surveyed to the edge of the road right-of-way. In the latter case, the private road right-of-way is essentially a commonly owned parcel of land, whereas in the former case, each property owner actually holds fee simple possession of a portion of the private road.

10. Section 4.4 (Streets) – Private road design and construction standards have been added. Previous drafts of the proposed regulations stated that all newly created lots must front on a public street. Section 4.4 had to be rearranged with the addition of private road standards.

    Two classes of private roads are proposed: Class A and Class B. A Class A private road serves up to 8 lots; a Class B road serves up to 4 lots.

    All private roads must be located within a 50-foot wide right-of-way; with Class A roads having a 16-foot wide travelway, and Class B roads having a 12-foot wide travel way. A Class B private road created to serve no more than a total of 2 lots does not have to be constructed to the regulation standards. Travelways must be constructed with 4 inches of compacted crushed stone for the entire width of the travelway.

    A professional land surveyor must certify that the road travelway is located within the platted right-of-way for all private roads. A registered engineer must certify that all roads serving 3 or more lots are constructed to the County's private road standards.

11. Section 4.5 (Utilities) – This Section was rearranged for better organization. Also, a requirement was added to require that all new subdivisions being created must connect to existing water and/or sewer systems when they are located within 200 feet of such water/sewer lines.

12. Section 4.5.5 (Fire Hydrants), Paragraph B - Amended to reduce distance between fire hydrants and any building within a subdivision. Previous drafts of the Ordinance stated that

all parts of every building within a subdivision (where public water is available) be served by a hydrant by laying not more than 500 feet of hose connected to such hydrant. That distance has been reduced to 300 feet.

13. Section 4.6.2 (Concrete Engineered Structures) – Dyed and textured concrete no longer required, but recommended, for use in the construction of such structures.

14. Section 4.6.3 (Land Use Buffers) – The Table of Acceptable Planting Materials for Land Use Buffers has been expanded to include more variety.

15. Section 5.2 (Definitions) - Added definition of "Board of Adjustment", "Family Subdivision", and corrected definition of "Manufactured Home Park" to match the definition found in the County's Manufactured/Mobile Home Park Ordinance.

Requested Changes Not Made:

1. Certificate of Land Use Regulation - The title of this certificate is admittedly confusing because the term "land use regulation" often refers to zoning. However, the term extends to manufactured/mobile home park, recreational vehicle (RV), campground, flood damage prevention, water supply watershed, and other land development related ordinances, including subdivision regulation. The title of the certificate was not changed because the subdivision regulations do "regulate parcels of land" in a manner of speaking, and they also encompass and/or refer to aspects of other land development ordinances; either through the adopted development standards, or because they reference another ordinance's standards.

2. Certificate of Ownership and Dedication – It was requested that a statement be placed in the certificate language stating that "roads should have a dedicated right-of-way to the center line of the street or road". The purpose of this statement is confusing, and does not belong in the ownership statement. Also, the purpose it intends to serve is fulfilled through the Ordinance's development standards for streets (public and private).

3. Article 4 (Required Minimum Design Standards), Section 4.0 (General) – It was noted that the requirements for major and minor subdivisions should be placed under this Section. This was not done because the standards found in Article 4 (Required Minimum Design Standards) apply to all subdivisions, as specified in the 1st sentence of Paragraph B of Section 4.0 (General).

4. Section 4.1.10 (Stream Buffers) – It was requested that the word "undisturbed" be removed from the 1st sentence. Per our discussion, it was indicated that there was concern that someone would not be able to construct a pier or boat ramp if this word were to remain. It is not the intent of this Section to prohibit the construction of a pier or boat ramp, or a pathway to get to it, so long as paths cross the stream buffer as close to perpendicular as possible (similar to that of road crossings in stream buffers).

5. Section 4.3.4 (Building Envelopes) – It was requested that a provision be placed in the requirements that "an accessory structure (shall) not exceed ten percent (10%) of the size of the primary dwelling. If so, a variance would be required". This provision was not included because it is more closely related to a zoning requirement, and thus not under the explicit purview of subdivision regulation.

   It is important to note that the proposed regulations do contain some requirements that are more often found in zoning ordinances (e.g., building setbacks, maximum lot coverage) than subdivision regulations. However, the General Statutes do allow Counties to regulate building setbacks separately from zoning (NCGS 153A-326), and maximum lot coverage can be tied to subdivision layout. Regulating the relationship of one structure to another as far as minimum/maximum size tends to lend itself more to regulating the structures themselves, rather than setting out maximum lot coverage requirements.

6. Section 4.4 (Streets) – It was requested that the State standards for public road construction be placed in the Ordinance. As we discussed, these standards are found in the North Carolina Department of Transportation's (NCDOT's) Subdivision Road Minimum Construction Design Standards manual, and amended from time-to-time, thus creating the potential for the Subdivision Regulations to be in conflict with State standards for public road construction, should the State's standards be amended.

7. Section 4.4.12.8 (new 4.4.10.8) (Curb and Gutter) – It was requested that stormwater retention ponds and stormwater runoff requirements be placed in this Section. Stormwater drainage requirements are addressed under Section 4.5.4 (Stormwater Drainage System).

8. Section 4.5.1 (Water and Sanitary Sewer Systems) (new "Public and Quasi-Public Water and Sanitary Sewer Systems") – It was requested to add an impact fee for public infrastructure improvements. A provision such as this is rare for a rural county. Also, it was my feeling that a detailed water and sewer capacity study would need to be performed to determine the fee to be assessed, as well as the threshold number of lots that would trigger the assessment of the fee. I discussed this issue with a staff member of the University of North Carolina at Chapel Hill's Institute of Government. They concurred that a requirement such as this would require careful study by the County prior to the adoption of such a requirement, and that such a requirement would be governed under NCGS 153A (Counties), Article 15 (Public Enterprises).

   Our office does not have the technical expertise to prepare such a study. I would suggest that this matter be discussed with the County's Public Works Director or engineer/consulting engineer. The simpler, more direct way to address this issue is for the County to not approve subdivisions in areas where water/sewer capacity is not available to support the development.

Additional Changes Made by Division of Community Assistance Staff (Not Requested):

1. Minor corrections to Sections 3.1 (Approval Prerequisite to Recordation), and 3.3 (Review Officer Approval Required for Certain Plats), Paragraph A, to reflect current Statutory language regarding plat recordation and to clarify Review Officer requirements.

2. Section 3.6 (now 3.5.1) (Determination of Classification) – Inserted language allowing appeal of Subdivision Administrator's decision on exempt plats to be referred to Board of Adjustment.

3. Article 3 (Application and Approval Procedures) – Consolidated all certificates into new Subsection 3.10.1 (Certificates and Endorsements to Appear on Final Plats) to reduce duplication in the different approval procedures for different classes of subdivision. This should reduce the length of the proposed regulations slightly.

4. Section 3.13 (Recombination of Land) – Changed some of the words "shall" to "should" to indicate that these are suggestions and not mandatory. This was done because the recombination and combination of previously subdivided and recorded lots are exempt from the regulations as long as all lots, including resulting lots, meet the standards of the Ordinance. Plat requirements do not affect physical lot requirements; therefore it would be difficult to demand that an applicant prepare a plat in conformance with the Ordinance. These are general guidelines for plat preparation for these types of exempt plats.

5. Section 4.3.2 (Lot Layout) – Provided provisions to allow private road rights-of-way to divide lots in certain cases.

6. Steep slopes have been reduced from 25% or greater to 15% or greater, as there are most likely no areas in Columbus County with slopes of 25% or more. Some mapping I have performed in connection with the ongoing land use plan project indicates that few areas have slopes of 15% or greater.

7. Section 4.4.7.5 (former 4.4.11.5) (Cul-de-Sacs and Temporary Turnarounds) – Cul-de-sac length has been increased from 500 feet to 1,000 feet. The reason for the change is because the 500-foot length is a more urban standard. The rural, agricultural character of Columbus County should be an asset in the future; so adopting urban cul-de-sac length standards could threaten this asset.

8. Section 4.5.6 (Streetlights) – Changed regulations to state that streetlights "may", rather than "shall", be provided at each street intersection. I felt that streetlights in rural subdivisions were not always necessary, and some discretion should be used in their requirement.

9. Section 5.2 (Definitions) – Removed definition of "Lot Area" as it was duplicative of the definition of "Usable Lot Area". Added a definition for "Public Street or Road".

Additional Questions Noted in Ordinance Review Copy:

1. Is there a 1st and 2nd reading of the Ordinance required for adoption? – No.

2. Does the County or State enforce erosion control standards (Section 4.1.2 (Erosion and Sedimentation Control))? – To my knowledge, the County does not have an adopted erosion control ordinance in place; few counties in the State do. The North Carolina Department of Environment and Natural Resources (NCDENR), Division of Land Quality, would review erosion and sedimentation control plans associated with subdivision proposals.

3. Are "building envelopes" the same as "building setbacks"? – Building envelopes are essentially the areas within the building setbacks. For example, the Ordinance may state that the building envelope is to be located 35 feet from the street right-of-way, 50 feet from the rear property line, 5 feet from a side property line, and no building envelope may be located closer than 50 feet to a building envelope on an adjacent lot. So, technically, the setbacks are 35 feet from the street right of way, 50 feet from the rear property line, 5 feet from the side property line; however, in this case, the building setback on the adjacent lot must be 45 feet from the side property line so that there will be 50 feet between it and the building envelope on the subject lot. An example is shown below.

Figure 1: Example of Building Envelope/Setback Requirement Found in Proposed Subdivision Regulations

NOTE: An example of this building envelope can be reviewed in the original document that will be kept on file in the Office of the Clerk to the Board and in the Office of the County Planner.

4. Does the building envelope requirement address the dwelling only or accessory structures as well? – All buildings and/or structures must be located within the required building envelope. Fences, septic systems, wells, & driveways may be located outside of building envelopes.

Discussion was conducted on the Requested Changes Made, Item Numbers: 1 - 10, with recommended minor changes and additions.

Chairman Godwin announced the next workshop would be held on Thursday, May 27, 2006, at 6:00 P.M. in the Economic Development Conference Room.

WORKSHOP CLOSED:

At 8:31 P.M., Chairman Godwin stated this workshop was closed.

APPROVED:

JUNE B. HALL, Clerk to Board **KIPLING GODWIN, Chairman**