



CITY OF CONCORD

REPORT TO THE MAYOR AND CITY COUNCIL

FROM: Heather Shank, Assistant City Planner

DATE: September 22, 2015

SUBJECT: Proposed Revisions to the Cluster Development Ordinance

Recommendation

Accept this report and set the proposed amendment for a public hearing.

Background

In 2008, Mayor Bouley met with the Economic Development Advisory Council to discuss EDAC's concerns about several elements of the City's land use regulations. One of the areas of concern regarded the Cluster Zoning Ordinance primarily as it pertained to the difficulty of developing small subdivisions in the Open Space Residential (RO) district. The Mayor ultimately created a community-wide forum for further input on the City's zoning ordinance. Concord 2020 provided a facilitator to gather the public opinion and provide a report. Subsequent to the 2020 report, City staff prepared a series of proposed ordinance changes that were presented to the Planning Board in early 2011 and adopted by Council later that year. At the time, additional amendments, such as changes to the Cluster Zoning Ordinance, were just beginning to be drafted and were anticipated for a subsequent staff report to Council. An early draft of the proposed ordinance amendment was presented to the Planning Board on March 20, 2013 but was not fully developed and required additional work. Shortly, thereafter, the Planning Division experienced turnover in staffing and this effort was re-prioritized.

With the full complement of Planning staff in place today, this project has been re-tooled in a manner that is more efficient and effective than earlier iterations.

The current proposal was presented to EDAC during their April 2015 meeting. EDAC members offered feedback and expressed support for the concept. Multiple presentations were then given to the Conservation Commission over several months, during which time members' concerns were addressed and amendment alternatives were discussed. Conservation Commission members also expressed support for the concept, though they made suggestions for additional changes to offset potential impacts.

The proposed amendment was ultimately reviewed by the Planning Board at its August and September 2015 meetings. Upon holding a public hearing on the change, the Planning Board voted unanimously to recommend the amendment to the City Council.

Purpose

Cluster zoning is intended to organize large developments by congregating homes in small areas, and preserving larger areas for open space. It can be a very effective tool for preserving open space in an environment of intense development pressure where large subdivisions are prevalent. However, cluster zoning does not accommodate small subdivisions well. Please note:

- Small parent tracts do not have enough land to develop as a cluster subdivision. Under the current ordinance, small subdivisions are therefore required to obtain a Conditional Use Permit (CUP) for a conventional (non-cluster) subdivision.
- The open space requirement that 60% of the parent tract be placed in conservation easement with 40% of that land required to be buildable still applies to a conventional subdivision permitted through a CUP.
 - For small parent tracts that may be highly constrained by natural features; the open space and buildable area requirements may not leave enough unconstrained land for house lots.
 - Small parent tracts that subdivide successfully may create small, oddly shaped conservation easements that are disconnected from other open space, difficult to monitor, and may be of little environmental or recreational value.
 - For large parent tracts, requiring 60% of the land to go into conservation easement when a single 2-acre lot is proposed is enough of a disincentive to prevent the subdivision from moving forward.

The purpose of the amendment is, therefore, to relieve some of the restrictions currently required of minor subdivisions in the RO District, and reduce the occurrence of disconnected conservation easements that may not have sufficient area to be of recreational or environmental benefit.

Changes

The following changes to the Zoning Ordinance are proposed:

- A special applicability section is proposed to Article 28-4-7, Cluster Development, to allow minor subdivisions in the RO district the option to develop using either the cluster standards, or the conventional standards of the zoning ordinance.
- Article 28-5-46, which permits conventional development with a conditional use permit, is proposed to refer specifically to major subdivisions. Minor subdivisions would now be permitted to develop conventionally without a conditional use permit and without the 60% open space requirement.
- The Table of Principal Uses is proposed to add two new uses. Use #A-8 would specify that a major subdivision is permitted as a conventional subdivision by Conditional Use (CU), and Use #A-9 would specify that a minor subdivision is permitted as a conventional subdivision by right (P). Use #15 would be deleted as it would be superseded by the two new use categories. The Table of Principal Uses A-8 to A-14 are re-numbered to incorporate the proposed changes.

Analysis of Impacts

Property owners who have been reticent to develop minor subdivisions under the existing ordinance in the RO District may be encouraged to move forward, thereby adding to the City's tax base.

Since minor subdivisions usually consist of frontage lots (lots that are created along an existing roadway as opposed to lots that are created along a proposed subdivision roadway), it should be noted that the change will most likely result in an increase in frontage lots along rural roads in the RO District. The current ordinance essentially minimizes the occurrence of frontage lots through provisions that discourage development of minor subdivisions in the RO District. Therefore, solving the development issue may inadvertently create more frontage lots.

Criteria for Planning Board Review

Section 28-10-4 of the Zoning Ordinance requires that the Planning Board provide their findings and recommendations to City Council on the following:

a) The consistency of the proposed amendment with the Master Plan:

The Land Use section of the Master Plan 2030 emphasizes the importance of preserving open space through mandatory cluster development in the Open Space Residential (RO) District. It does not distinguish between large subdivisions with greater impacts, and 2 or 3-lot subdivisions with minimal impact.

Future updates of the Master Plan should distinguish between land use recommendations for large and small subdivisions, and acknowledge the importance of preserving the ability of property owners to subdivide when minimal impact or development is proposed.

b) The consistency of the proposed amendment with other plans, studies or technical reports prepared by or for the Board and the City:

At Mayor and Council's invitation, Concord 20/20 facilitated a series of public forums to discuss potential changes to the Zoning Ordinance. The 2010 "Land Use Regulation Review" stemming from those forums notes a need for relief from the mandatory cluster requirement for small projects.

c) The effect of the proposed amendment on the City's municipal services, capital facilities, and planned facilities as described in the Capital Improvements Program:

The proposed amendment is anticipated to have limited effect on the City's municipal services. Most development in the RO District is not on municipal water or sewer.

d) The effect of the proposed amendment on the natural, environmental, and historic resource of the City:

The proposed amendment is not likely to have a significant environmental impact, as the potential area removed from the possibility of conservation easement is small in comparison with the amount of land already protected.

While the Conservation Commission supported this amendment, they did express a concern over the possible increase in frontage lots along rural roads, and the aesthetic impact of losing rural viewsheds or naturalistic landscapes. The concern was that an

increase in 2-acre lots would create a more “suburban” landscape with the addition of curb cuts, loss of forested areas, and potential increase in density.

While not proposed at this time, the Conservation Commission expressed support for increasing the minimum lot area requirement in the RO District from 2 acres to 4 acres to mitigate the potential impact of additional frontage lots. Such a fundamental change in Concord’s overall development policy would require future additional analysis and public input.

e) The effect of the proposed amendment on neighborhoods including the extent to which non conformities will be created or eliminated:

The proposed amendment will affect neighborhoods to the extent that additional lots may be created in rural areas. There is not likely to be an increase or decrease in non-conformities.

f) The effect of the proposed amendment on the City’s economy and fiscal resources:

The proposed amendment addresses a concern that small developments were being inhibited by the existing ordinance. It is assumed that with this change, more minor subdivisions may result, adding to the City’s tax base.

g) The recommendations of the Planning Board relative to whether the proposed amendment should be adopted or rejected, and any recommendations for conditions of adoption or modifications to the proposed amendment:

The Planning Board unanimously supports the proposed amendments, and recommends adoption by City Council.

Proposed Amendment

A draft ordinance has been submitted to amend Section 28-4-7, Cluster Development, Section 28-5-46, Single-Family Dwellings in a Standard (Non-cluster) Subdivision, and the Table of Principal Uses from Section 28-2-4(k). Recommended deletions are struck through; proposed additions are in italics.