

**PROPOSAL:** Amend Unified Development Ordinance Standards for Cluster Subdivision Overlay District (CSOD) standards.

**APPLICABLE CHAPTER(S):** UDO Chapter 4.4.1

**APPLICANT:** Lancaster County Council

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**STATED CONCERN:** “Changes are intended to address known issues...related to front setbacks, usable open space, lot sizes, CSOD lot mix, block face lengths, and density calculation.”

**PROJECT SUMMARY & PROPOSAL:**

Growth management has been an active discussion with the County Council over the course of the last year.

In 2022, a proposed Interim Ordinance for the cluster design standards, including changes to minimum lot size, front yard setbacks, open space requirements, and open space in relation to block length, was denied. Afterwards, citizen engagement prompted the County Council to initiate proposed changes to the Medium Density Residential (MDR) Zoning District and the associated Cluster Subdivision Overlay District (CSOD). This also failed to pass as a joint resolution, and staff asked for time to separate the two issues in order to reach a resolution.

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**OVERVIEW:**

Staff has had concerns that the cluster subdivision overlay district was not being used in the way that cluster subdivisions are intended, and is seeking to address this.

Cluster subdivisions are generally used to accommodate a specific goal of the community and/or comprehensive plan. For example, cluster design flexibility is provided in many communities in exchange for natural resource protection, transit-oriented neighborhoods, or to achieve affordable housing. The Lancaster County Cluster Subdivision Overlay code section references this, but does not specifically require or call out the objective.

Earlier attempts were challenged based on discussions about how the options would impact the Panhandle. Cluster subdivision design, properly implemented, could be viable county-wide.

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#### OPTIONS:

Staff has reviewed multiple code sources and recommends deliberation of the following options (in no particular order):

- **Only allow cluster subdivisions as a means to address an accepted need in the county.**
  - Current code mentions using cluster subdivision design to preserve trees and flood areas, but needs more teeth and to list more of the county's stated concerns (slope failure areas, floodways, stream banks, tree species and size for preservation, etc).
  - Additional needs of the county include middle housing options, entry-level housing for first time homebuyers, and housing for renters.
- **Add parking plan requirement for overflow; require parking to be on private lands (off street); allow narrower roads by review/approval of Planning Commission.**
  - One component option of cluster subdivision is to reduce impervious surfaces, like roads. Reducing the width of pavement on roads should be allowed only if the width will accommodate public safety, and only if parking is prohibited on the street so that public safety and public health vehicles (garbage trucks) can safely travel the roadways as needed.
- **Allow flexible setbacks (a range of setbacks vs a standard setback) to reduce the need for variance.**
  - If the purpose of cluster housing is to preserve land that has issues with terrain, water, tree preservation, etc., then the developer should have some flexibility to site the houses in such a way to achieve this. A single setback regulation can defeat the purpose of the cluster subdivision without some flexibility. Avoiding a costly delay by requiring variance review also helps move the project along and achieves the community's goals.
- **Require phasing to reduce mass grading.**
  - Staff have received many complaints about entire development sites being taken down all at once; it provides challenges for sediment management as well.
  - Phasing the plans would allow trees to remain in sectors until the development progresses to the next phase.
- **Apply the following to the future UDO rewrite:**
  - Determine tree species and sizes to be protected; prioritize tree species that are native to the area and help control stormwater (through absorption).

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## PROPOSED TEXT AMENDMENTS

Language proposed for deletion is ~~striketrough~~

Language proposed for addition is highlighted and underlined

### 4.4.1 CLUSTER SUBDIVISION OVERLAY DISTRICT (CSO)

The Cluster Subdivision Overlay District, is hereby established. Cluster subdivisions are residential developments ~~which offer an alternative to traditional subdivision design~~ that group structures together in particular areas of a site, with the principle purpose being to encourage open space, conservation, agriculture, recreation, and public or semipublic uses, and natural resource protection in medium density residential districts. Cluster subdivisions shall be designed using a site planning technique that concentrates buildings and structures to the most buildable areas of a site in order to preserve the remaining area as open space for recreation and ~~/or~~ preservation of significant site features. Reductions below the minimums otherwise required by the UDO for lot area, lot width, and setbacks are allowed within a CSO, and such reductions are only permissible within a CSO. By preserving open space, a cluster subdivision will provide another tool by which the County shall preserve its rural character, natural resources, and/or other priority areas identified under the comprehensive plan. In addition, cluster layouts reduce development costs by cutting road and utility costs, and bypassing natural conditions on the site (floodplains, large trees, steep terrain, etc). Cluster subdivisions are permitted in moderate-density single family residential districts, specifically, Medium Residential District. Cluster subdivisions are not permitted in any other zoning districts. Only lands that have a natural condition that prohibits standard subdivision development are eligible for the cluster subdivision option as determined by the administrator. Development of a Cluster Subdivision requires submission of a Development Agreement (see UDO 9.2.18). (Ord. No. 2019-1623, 12.9.19) The following general provisions apply to the Cluster Subdivision Overlay District:

#### A. MINIMUM ACREAGE

The minimum tract area for a cluster subdivision shall be 30 gross acres [unless a larger minimum acreage is required as part of the Development Agreement Process (i.e. 25-acres of highland)], shall consist of contiguous parcels, and must adjoin or have direct access to at least one collector street. (Ord. No. 2019-1623, 12.9.19)

#### B. MINIMUM LOT AREA

The minimum lot area (in square feet) per dwelling unit within a cluster subdivision is dependent upon the lot width. Except for incentive lots, the smallest lot size available under the cluster subdivision option shall be ~~5,000~~ 7,500 square feet. This shall be the minimum lot area allowed for any lot with the minimum lot width of ~~50~~ 60 feet, as defined in Section C below. The minimum lot area per dwelling unit shall increase proportionately with an increase in lot width. Incentives to reduce minimum lot size to 5,000 square feet and 50 ft in width are explained in Section 4.4.1.D.3.

### C. MINIMUM LOT WIDTH

In a cluster subdivision, where both central water and sewer services are available and adequate, the minimum lot width shall be 50 60 feet, excepting incentive lots created under guidance of Section 4.4.1.D.3.

### D. VARIETY OF LOT SIZES

Individual lots in a cluster subdivision shall vary in size and layout. ~~No more than 34 percent of the lots in a cluster subdivision shall have a single designated lot width.~~ The following shall apply:

1. ~~The minimum separation between any two designated lot widths shall be 10 feet. For example, if 34 percent of the total number of lots has a lot width of 50 feet, 34 percent could have a lot width of 60 feet, and the remaining could have a lot width of 70 feet or greater.~~ No two adjacent lots shall have the same lot width; there will be at least five feet difference in width as measured at the primary frontage/right-of-way.
2. ~~The Planning Commission may allow a developer to vary the width of individual lots to accommodate site restrictions (i.e., easements, corner lot widths, etc). However, such lots shall be counted with the nearest designated lot width.~~ Incentivized lots (per Section 4.4.1.D.3) may not count for more than 35% of the total lot count.
3. Additional lot size reduction incentives
  - a. Up to 35% of the total lots may be created with a minimum of 5,000 sq ft area and 50 ft lot width (measured at the primary frontage/right-of-way) if at least three of the following components are provided in the design and secured by a development agreement:
    1. A 50-foot riparian buffer is created along waterways or creeks;
    2. An additional 5% of open space over the 25% required in Section 4.4.1.F;
    3. Half or more of the open space includes tree preservation of all existing species that measure 18" DBH or more;
    4. A trail system that connects to existing or planned public parks or trail systems outside of the neighborhood is created, built, and maintained;
    5. The neighborhood design includes a Safe Routes to School plan;
    6. Wetland buffers are extended by an additional 10 feet to accommodate wetland migration;
    7. Homes built in A or AE zones are constructed on stilts and not fill; and/or
    8. The stormwater system improves an existing issue in the area basin/watershed by at least 25% performance.

### E. SETBACKS

The following minimum setbacks are required for individual lots within a cluster subdivision:

1. **Front Yard:** The minimum front yard setback for the primary structure shall be 20 feet to the front of the structure and 40 feet to the garage, if the garage faces the street. If the garage faces a side yard or the rear of the property, the 20 foot setback applies.

Porches may extend into the front yard setback by five (5) feet to create additional variation in streetscape along local roads.

The front yard setback for a corner lot shall be as set forth in Chapters 2 and 3 of the UDO;

2. **Rear Yard:** The minimum rear yard setback shall be ~~30~~ 25 feet;
3. **Side Yard:** The minimum side yard setback shall be 7 ½ feet.
4. **Exceptions:** The Administrator may approve a reduction of rear or front setbacks by a maximum of five (5) feet in a situation where a structure can't meet the existing setbacks due to a condition in the natural environment that is being preserved, such as trees or wetlands. This may not be applied in addition to the porch exception in 4.4.1.E; this means that the Administrator may not approve a front setback that results in less than fifteen (15) feet from the right-of-way. Side yard setback reductions are not allowed under this exception.

#### F. OPEN SPACE REQUIREMENT

For a cluster subdivision, no less than 25 percent of the site acreage, not including primary conservation areas as defined in Item 3 below, shall be set aside in perpetuity as open space. Open space shall be clearly labeled as such on any preliminary or final plat (including sketch plans) submitted for review. Open space in a cluster subdivision is also subject to the following:

1. Open space ~~may~~ should include, but is not limited to, a combination of passive recreation, natural preservation of important scenic vistas, environmentally sensitive lands, habitat for wildlife, floodplains, riparian buffers, undisturbed forests of at least three (3) contiguous acres and at least two (2) different species of canopy trees as listed in Section 4.3.2.J.6.vii, and/or historically or archaeologically significant areas. Structures, swimming pools, stormwater management basins, and athletic facilities shall not count as open space. However, structures are permitted in the open space when they serve an accessory function, such as a gazebo, fishing dock, playground equipment, or play structures (Ord. No. 2019-1623, 12.9.19);
2. The amount of open space required to be set aside shall be determined by the following formula:

Open Space Set Aside = Total Land Area in Parcels minus Total Land Area in Primary Conservation Areas multiplied by the Open Space Percentage then added to the Primary Conservation Areas

$$TO = ((TP - PC) OSP) + PC$$

TO	= Total Open Space Set Aside	(acres)
TP	= Total Parcel	(acres)

PC	= Primary Conservation Areas	(acres)
OSP	= Open Space Percentage	(% of Improvable Area)

3. Primary Conservation area includes those areas that cannot otherwise be built upon or improved and therefore would be preserved in a conventional development. Such areas specifically include wetlands, surface waters and intermittent stream channels, steep slope terrain, and soils that don't support building.
4. To fulfill the requirements of this item (4.4.1.F), a combination of the following shall be included in the required open space where practicable:
  - a. Wooded areas;
  - b. Scenic vistas;
  - c. Streams, ponds, wetlands, and floodplains;
  - d. Buffers, including landscaped, perimeter, river, and stream;
  - e. Areas containing slopes in excess of 25 percent;
  - f. Other areas containing unusual natural site features (such as major rock formations); ~~and~~
  - g. Habitats of rare, threatened, and/or endangered species as listed by the SC Department of Natural Resources (SCDNR);
  - h. Agricultural lands that are in use;
  - i. Areas of historical importance;
  - j. Parking areas to support these amenities and overflow parking; and/or
  - k. Other environmentally, historically, or archaeologically significant or unique areas;
5. Open spaces shall be contiguous to the extent practicable when not restricted by topography, existing water body, and other natural features;
6. Pedestrians shall have access to open space;
7. Open space shall be deed restricted and shall not be developed for use other than open space except for agricultural lands, which shall be deed restricted to agricultural use and/or open space;
8. Open space shall remain under the ownership and control of the developer (or successors) or a homeowner's association or similar organization. The person or entity identified as having the right of ownership and control over such open space shall be responsible for the continuing upkeep and proper maintenance of the open space. The County shall have no responsibility for the maintenance of open space areas. If open space location meets a need in the County comprehensive plan, the County and developer may consider conveyance of completed open space to the County, upon Planning Commission and Council approval.

The person or entity having the right of ownership and control over such recreational facilities and open space shall be responsible for the continuing upkeep and proper maintenance of the same. It shall not be the responsibility of the County to maintain these areas.

9. A cluster subdivision shall include provisions for the protection of trees and other natural amenities within the area or areas designated for open space. The removal of trees and natural vegetation in designated open space is strongly discouraged, though it is permitted during the development phases **prohibited except** for the purpose of **constructing** trails and other such recreational improvements as approved by planning staff under the development agreement and/or site plan review. All open space shall be clearly labeled as such on any preliminary or final plat (including sketch plans) submitted for review. Trees over 24 inches in diameter (DBH) shall be preserved and incorporated in designated open space where practicable, and upon the request of planning staff such trees existing within areas designated for trails and other such recreational improvements may also need to be shown and labeled. Upon completion of development phases, no person or entity shall remove or destroy any trees or natural vegetation from designated open space without approval from the Administrator. However, normal maintenance and removal of dead or fallen trees are permitted and recommended, **including removal of vegetation as part of a Firewise program**, and shall be the responsibility of the person or entity identified as having the right of ownership as outlined in Item 8 above.

#### G. MAXIMUM DENSITY

The maximum number of dwelling units allowed per acre for a cluster subdivision shall not exceed the maximum for the residential use district in which it is located, as set forth in Chapter 2 of the UDO, where the total number of dwelling units allowed shall be based on the gross acreage of the site. For example, when the CSO is located within the MDR, Medium Density Residential, where the maximum density is two **and a half** dwelling units per acre, a 100-acre parcel of land shall be allowed to have no more than **200 250** dwelling units built on the site.

#### H. COMMERCIAL REQUIREMENT: There shall be no required commercial within a cluster subdivision.

#### I. SITE PLANNING REVIEW STANDARDS: A cluster subdivision shall follow the site plan review standards and procedures as set forth in Chapter 9 of the UDO, including but not limited to Section 9.2. Furthermore, planning staff shall also include the following in their review:

1. Overall site design shall be harmonious in terms of landscaping, enclosure of principal and accessory uses, sizes of structures, street patterns, and use relationships;
2. The site layout shall accommodate and preserve any features of historic, cultural, archaeological, or sensitive environmental value. Individual lots, buildings, structures, streets, parking areas, utilities, and infrastructure shall be designed and sited to minimize the alteration of natural features, vegetation, and topography;
3. Where practicable, individual lots, buildings, structures, streets, parking areas, utilities, and infrastructure should be designed and sited to be compatible with surrounding development patterns;



4. Where practicable, open space shall be located on a site in such a manner so that view sheds from existing public right-of-way are not obstructed, but are enhanced by the open space;
5. Private streets are permitted in a cluster subdivision, provided such streets meet the construction standards of Chapter 6 and Appendix C of the UDO. The following shall apply:
  - a. As required in Chapter 6 of the Lancaster County Code, as amended, the minimum right-of-way and pavement width shall be as follows:

Road Type	Right-of-Way (feet)	Pavement (feet)
Local (closed drainage)	50	22
Local (open drainage) ) – follow guidance for collector (rural)	66	22 <b>24</b>
Collector) – follow guidance for collector (rural)	66	24

- b. On-street parking is permitted in a cluster subdivision ~~where adequate right-of-way and pavement width is provided in accordance with standards of the South Carolina Department of Transportation~~ **where street widths are 30 feet or more**; on-street parking is prohibited on streets with less width; and
    - c. To ensure adequate clearance for emergency vehicles in a cluster subdivision, the Planning Commission may require signage and/or pavement markings to clearly indicate areas where on-street parking is prohibited;
6. Installing sidewalks on both sides of local streets in a cluster subdivision is encouraged **required**. ~~At a minimum, a sidewalk will be required on at least one side of every local street, with a sidewalk required on both sides of arterial and collector streets.~~  
 Local, arterial, and collector streets shall be clearly labeled as such on any preliminary or final plat submitted for review. **On local roads with areas where natural environments are not favorable for concrete sidewalk construction, the developer may discuss alternative path surfaces to meet the sidewalk requirement (for example, permeable pavement). Only surfaces that comply with the Americans with Disabilities Act may be considered, and the Administrator has the final say on accepting such replacement;**
7. In general, landscaping requirements for a cluster subdivision shall comply with the requirements of Chapter 7 of the UDO. However, the Planning Commission may vary such requirements in response to applications demonstrating alternative landscaping based on creative site planning. Existing trees and natural vegetation shall be retained wherever possible and shall count towards meeting the landscaping requirements;
8. The following buffer requirements shall apply for a cluster subdivision:



- a. In general, buffer requirements for a cluster subdivision shall comply with the requirements of Chapter 7 of the UDO where a buffer yard may be required between adjacent zoning districts;
  - b. Existing trees and natural vegetation shall be retained wherever possible and shall count towards meeting the buffer requirements;
  - c. Ingress/egress to the property shall be allowed within a buffer, as well as utility easements and sidewalks;
  - d. A 50-foot buffer shall be required on the frontage of all existing public streets. Where there is insufficient natural vegetation to provide a visual buffer for principal structures, plantings shall be installed by the developer. A minimum of 25 percent of the trees and 75 percent of the shrubs shall be evergreens in order to achieve opacity;
  - e. The Planning Commission may allow a developer to vary the buffer requirement to preserve view sheds from existing view sheds, as required in Item 4 above.
  - f. Buffer requirements within a cluster subdivision shall count as open space where it is contiguous with other areas designated as open space.
9. Variety in architecture and building materials shall be encouraged within a cluster subdivision. It is encouraged that buildings are constructed using quality finish materials (i.e., brick, masonry, stone, concrete siding, or stucco). Vinyl siding is permissible if in combination with other building materials.
10. Grading will be planned in phases, to retain tree cover for as long as possible, and minimize sediment runoff. The phasing plan must be reviewed and approved by staff and the Planning Commission during the preliminary plat review process. Any changes in phasing that affect infrastructure (streets, water, sewer, etc.) will require re-review by staff and Planning Commission.

#### J. OTHER ZONING REQUIREMENTS

The Cluster Subdivision Overlay District, may contain zoning and development standards and requirements that are inconsistent with or conflict with zoning and development standards and requirements contained elsewhere in the UDO. The standards and requirements contained in the Cluster Subdivision Overlay District supersede all other zoning and development standards and requirements. The Cluster Subdivision Overlay District is deemed controlling. If the Cluster Subdivision Overlay District is inconsistent with or conflicts with zoning and development standards and requirements contained elsewhere in Chapter 4, then the zoning and development standards and requirements contained in Chapter 4 supersede the standards and requirements contained in the Cluster Subdivision Overlay District and the provisions contained in Chapter 4 are deemed controlling.

#### K. ~~EXAMPLES OF APPLYING FORMULAS~~

~~Below are examples of applying formulas to determine the total number of dwelling units allowed and the amount of the site acreage to be set aside as open space within a Cluster Subdivision Overlay District.~~

Example: Assume that a 50-acre parcel is being developed. The residential use district is MDR, Medium Density Residential District, where the maximum density is 2.5 dwelling units per acre. Assume that there are 5 acres of Primary Conservation area. The open space percentage is 25 percent (or as a decimal, .25).

The following formula would be used to determine the total number of dwelling units allowed:

Total Dwelling Units Allowed = Total Parcel multiplied by Maximum Dwelling Units per Acre

TU	= Total Units Allowed	(dwelling units)
TP	= Total Parcel	(acres)
DUA	= Maximum Dwelling Units per Acre	(dwelling units/acres)

$$TU = (TP) (DUA)$$

$$TU = (50) (2.5)$$

$$TU = 125 \text{ Total Lots or Dwelling Units Allowed}$$

The following formula would be used to determine the amount of the site acreage to be set aside as open space:

Total Open Space Set Aside = Total Parcel minus Primary Conservation Areas multiplied by Open Space Percentage then added to Primary Conservation Areas

$$TO = ((TP - PC) \cdot OSP) + PC$$

TO	= Total Open Space Set Aside	(acres)
TP	= Total Parcel	(acres)
PC	= Primary Conservation Areas	(acres)
OSP	= Open Space Percentage	(% of Site Acreage excluding PC)

$$TO = \text{Total Open Space Set Aside } TP = 50 \text{ acres Total Parcel}$$

$$PC = 5 \text{ acres Primary Conservation Areas } OSP = 25\% \text{ (or .25)}$$

Open Space Percentage

$$TO = ((50 - 5) \cdot .25) + 5$$

$$TO = ((45) \cdot .25) + 5$$

$$TO = (11.25) + 5$$

$$TO = 16.25 \text{ acres of Total Open Space Set Aside}$$