

BOARD OF ALDERMEN

ITEM NO. (2)

AGENDA ITEM ABSTRACT

MARCH 27, 2007

**SUBJECT: REVIEW OF THE MORGAN GLEN WATERSHED RESIDENTIAL SUBDIVISION
CONDITIONAL USE PERMIT, 605 OLD FAYETTEVILLE ROAD**

DEPARTMENT: PLANNING DEPARTMENT	PUBLIC HEARING: YES <u>X</u> No <u> </u>
ATTACHMENTS: A. PROJECT PLANS B. LAND USE PERMIT APPLICATION C. VICINITY MAP D. EXISTING CONDITIONS E. SUNGATE "TRUTH IN DRAINAGE" STATEMENT APPROVAL F. LETTER REGARDING AGRICULTURAL USE G. LETTERS FROM NEIGHBORS H. CONDITIONAL USE PERMIT WORKSHEET.	FOR INFORMATION CONTACT: JEFF KLEAVELAND, 918-7332

PURPOSE

Mr. Philip Marshall and Ms. Caroline Wallner, owners of the property addressed as 605 Old Fayetteville Road (with frontage on Swansea Lane) are seeking permission to subdivide their existing 10.2 acre parcel into two lots.

INFORMATION

Background

The subject property is zoned WR (Watershed Residential) and is listed on the Orange County Tax Map as number 7.114..1. The property is located directly south west of Carrboro Plaza Shopping Center (Attachment C).

Philip Marshall and Caroline Wallner submitted an application for a Conditional Use Permit (8.11.06) for the subdivision of their 10+ acre lot into two lots (Attachment B). All such subdivisions in the watershed district require a CUP and therefore must satisfy the applicable provisions of the Land Use Ordinance (LUO).

Density

The two lots sought will be slightly in excess of the 5 acre minimum lot size for the WR zoning district as specified in Section 15-181 of the LUO.

Natural Constraints, Site Layout

The existing lot drains primarily to the south and is mainly wooded with a mix of pines and hardwoods. There is one existing single family house and two accessory buildings used for storage (Attachment D).

Per the provisions of Section 15-267 (a & b) of the LUO, subdivisions in the WR district must identify on all lots approximate driveway locations and building envelopes so as to demonstrate that they avoid the primary site constraints as detailed in Section 15-198.

To this end the applicant has mapped the steep slopes, drainage areas, and hardwoods that constitute this site's primary constraints [Attachment A (Sheet S-1)]. The layout must also respect the existing stream buffers on-site.

The resultant subdivision shows the general location of driveways as well as the proposed building envelopes. As evidenced by the drawing these features avoid primary constraints and do not include the regulatory stream buffer. Also note that that an additional 20 foot impervious surface setback from the drainage buffer is required per the provisions of Section 15-184(g). The layout does not encroach upon this setback, though it is not shown on the drawing. The setback will be required to be shown on the recorded final plat along with the building envelope, general driveway location, and impervious surface information. Because of this the following condition is recommended:

- That the 20 foot impervious surface setback from the site's regulatory stream buffers be shown on the final plat as required per the provisions of Section 15-184(g) of the Land Use Ordinance.

Impervious Surface Allocation

Per the provisions of Section 15-266(b), impervious surface (i.e. driveways, patio, roofs) is regulated on lots in the WR district. The two lots will be slightly larger than five acres and are allotted 4% of their total acreage for impervious surfaces. For a five acre lot, this amounts to 8,712 square feet of allowable impervious surface.

For Lot 1b, it is clear that sufficient impervious surface is available for this lot, but the accounting of these areas needs refinement and for this reason the following condition is recommended:

- That prior to final plat approval the impervious surface data be accurately portrayed not to exceed the allowable amount per Section 15-266(b) of the Land Use Ordinance.

Stormwater, Erosion Control, Drainage

Since this subdivision requires a conditional use permit, it is also subject to the Drainage, Erosion Control and Stormwater provisions of Article XVI of the LUO. To this end, a "Truth in Drainage" statement has been prepared by the applicant's engineer and reviewed by the Town Engineer (Sungate Design Group). Sungate has approved the "Truth in Drainage" as is evidenced by the attached letter (Attachment E).

Because the creation of the lot does not include any land disturbance, erosion control will be addressed when a building permit is sought.

Open Space and Recreation Requirements

Per the provisions of section 15-197(a), the Board may authorize an exemption from the open space and recreation requirements of the LUO for projects that do not seek improvements (i.e. water, sewer, or road extensions). The proposed subdivision satisfies these provisions. For this reason the following condition is recommended:

- That the Board finds this subdivision exempt from the open space and recreation requirements of the Land Use Ordinance per the provisions of Section 15-197(a) of the Land Use Ordinance as it does not seek improvements (i.e. water, sewer, or road extensions).

Utilities

The new lots will be served by well and septic systems which require permits from Orange County Environmental Health Division. Each lot has been found to be *provisionally suitable* for Well and Septic permits from this agency which is sufficient for receipt of a Conditional Use Permit. However, the following condition is recommended since the permits have not yet been issued:

- That Orange County Well and Septic permits be issued prior to final plat approval for Lot 1b and prior to building permit approval for Lot 1a.

Further, as required by Section 15-245, all new utilities are to be placed underground necessitating the following condition:

- That all new utilities required by the subdivision be placed underground per the provisions of Section 15-246 of the Land Use Ordinance.

Note that OWASA review is not required for well and septic systems.

Transportation

Since Swansea Lane is private, NCDOT has no comment about any proposed driveway cuts to access this road. Further, it should be noted that Morgan Glen originally was approved as an exempt subdivision (i.e.: exempt under state statute from local subdivision regulations) because all lots created were in excess of 10 acres. Because of its exempt nature, the plat creating the lots had to show an access point to each lot, but the access drive itself did not have to be constructed to any specific specifications or standards. In this case, a 12-foot drive was installed providing access to each of the lots.

Further subdivision of any of the lots is subject to the requirements of the Town's LUO, including provisions related to streets. In this case, staff analyzed LUO Section 15-220 to determine if any improvements to the access road were necessary. Staff determined that the 1988 exempt subdivision created a situation where more lots are served by a private road than otherwise would be allowed under the LUO. Specifically, Section 15-220(d) typically limits a private drive not meeting standards to serving a maximum of three (3) lots intended for single-family use only, but in

this case the private drive serves ten (10) lots. While this commonly occurs with exempt subdivisions of 10+ acres, it should be noted that the LUO does not allow creation of additional lots served off such a private road without improvements to bring the road up to either a private or public road standard. Therefore, a subdivision of any lot within Morgan Glen either must involve improvements to the access road or must have road frontage along an existing public road so as to not increase the number of lots served by a private road not meeting standards.

The lot currently proposed for subdivision does in fact have frontage along Old Fayetteville Road. The driveway serving the existing house currently connects to both Old Fayetteville Road and Swansea Lane. For staff to determine that no additional lots are served off Swansea Lane as a result of the proposed subdivision, it is necessary to remove the existing connection to Swansea Lane, thereby limiting driveway access for Lot 1B to Old Fayetteville Road (i.e.: no net increase in number of lots served off Swansea Lane). It is conceivable that one other existing lot (101 Swansea Lane / OCTM#7.114..1R) could apply for subdivision without necessitating road improvements to Swansea Lane (since it also has Old Fayetteville Road frontage), but to further subdivide any other Morgan Glen lot, it will be necessary to improve Swansea Lane to Town standards for private drives at a minimum. Because of this, staff recommends that the following condition be attached to the CUP:

- That the existing Swansea Lane driveway connection be removed prior to recording the final plat. A continuing condition of this CUP is that a driveway from Lot 1B may not connect to Swansea Lane.

One other matter must be resolved with regard to the final version of the plat, as evidenced by the suggested CUP condition below:

- That prior to recording the final plat, the currently named “public road” must be relabeled “private road” and the 60-foot right-of-way must be relabeled 60-foot easement.

Notification

All property owners and renters within 1000’ of the subject property have been given notification of the Joint Review Meeting. Similar notification has been given for the project’s public hearing before the Board of Aldermen.

Screening

Section 15-308 of the LUO does not require the proposed *single-family residential* use of this subdivision to provide screening with respect to adjacent properties.

Tree Protection

Large trees as defined by the LUO have a diameter of 18 inches or greater and are to be retained whenever possible (15-316). According to the survey, there are no trees greater than 18” on this site. The configuration of the building envelopes strive to avoid hardwoods, building outside of this envelope is not permitted without official approval. When a building permit is applied for, the applicant will be required to identify the area of disturbance and, if necessary, provide tree protection fencing at this perimeter.

Lighting

No special site lighting is proposed; the applicant is advised to use “Dark-Sky” compliant fixtures for any fixtures accessory to new buildings.

Parking

Because of the small scale farming use sought for lot 1b as described in Attachment F (see ‘farming activities’ under Miscellaneous, below) additional parking is necessary for those few days a year when on-site sales takes place. Because of this the following condition is recommended:

- That prior to final plat approval, the applicant designate an area on Lot 1b sufficient to allow for safe onsite movement and parking of vehicles anticipated during the occasional marketing of the farm’s products.

Sidewalk

No sidewalks, as shown on the Town’s adopted Sidewalk Master Plan, are required to be built on the west side of Old Fayetteville Road.

Miscellaneous

Neighborhood Information Meeting:

A formal Neighborhood Information Meeting was not held though the applicant discussed his property with various members of the subdivision.

Farming Activities:

The applicant wishes to be able to use lot 1b for market gardening in the future. Attached is a letter describing the proposed scope of operations; because of the interest in livestock, though small-scale, the permit will need to seek a *combination use* for lot 1b (i.e.: Use 1.111, Single-Family House & 14.100, Agricultural Operations including livestock) (Attachment F).

Note that this use *is subject* to the restrictions of the Morgan Glen subdivision covenants. If the Board permits the use, it *does not* mean that the Homeowner’s Association’s permission is superseded, and the use is thereby allowed. Instead, it will be the applicant’s burden to work with the HOA to allow the use (or some version thereof). The main benefit to the applicant of securing the use now is to avoid the inconvenience of pursuing it later via a Minor Modification to the CUP.

Notwithstanding specific prohibitions within the subdivision covenants, the *Accessory Use* provisions of the LUO do not prohibit large gardens and associated livestock so long as this use is “incidental to the primary use” and “is commonly associated with the principal use and integrally related to it” (Section 15-150). Further, Section 15-150(c-4) allows “yard or garage sales, so long as such sales are not conducted on the same lot for more than three days (whether consecutive or not) during any 90-day period.”

Morgan Glen Homeowner’s Association

Members of the Morgan Glen Homeowner’s Association have submitted letters for review by the Board of Aldermen regarding this CUP (Attachment G).

Building Height

The CUP plans set erroneously shows the maximum building height to be 35'. In the WR zoning district the maximum building height is 40'. Because of this, the following condition is recommended.

- That the maximum building height for the new lots be 40', consistent with the provisions of Section 15-185 (a-2) of the Land Use Ordinance.

STAFF RECOMMENDATION

Town staff recommends that the Board of Aldermen open the Morgan Glen WR Conditional Use Permit public hearing. Town staff recommends approval of the project. The Board is directed to first complete the attached conditional use permit worksheet (**Attachment H**). Upon completing the worksheet, staff recommends that the Board consider the Conditional Use Permit for the Morgan Glen WR Conditional Use Permit subject to the conditions below:

1. That the 20 foot impervious surface setback from the site's regulatory stream buffers be shown on the final plat as required per the provisions of Section 15-184(g) of the Land Use Ordinance.
2. That prior to final plat approval the impervious surface data be accurately portrayed not to exceed the allowable amount per Section 15-266(b) of the Land Use Ordinance.
3. That the Board finds this subdivision exempt from the open space and recreation requirements of the Land Use Ordinance per the provisions of Section 15-197(a) of the Land Use Ordinance as it does not seek improvements (i.e. water, sewer, or road extensions).
4. That Orange County Well and Septic permits be issued prior to final plat approval for Lot 1b and prior to building permit approval for Lot 1a.
5. That all new utilities required by the subdivision be placed underground per the provisions of Section 15-246 of the Land Use Ordinance.
6. That the existing Swansea Lane driveway connection be removed prior to recording the final plat. A continuing condition of this CUP is that a driveway from Lot 1B may not connect to Swansea Lane.
7. That prior to recording the final plat, the currently named "public road" must be relabeled "private road" and the 60-foot right-of-way must be relabeled 60-foot easement.
8. That prior to final plat approval, the applicant designate an area on Lot 1b sufficient to allow for safe onsite movement and parking of vehicles anticipated during the occasional marketing of the farm's products.
9. That the maximum building height allowed be 40', consistent with the provisions of Section 15-185 (a-2) of the Land Use Ordinance.