

OCONEE COUNTY PLANNING COMMISSION

415 South Pine Street - Walhalla, SC



TEL (864) 638-4218 FAX (864) 638-4168

AGENDA

6:00 pm, Monday, June 4th, 2018

Council Chambers - Oconee County administrative complex

1. Call to Order
2. Invocation by County Council Chaplain
3. Pledge of Allegiance
4. Approval of Minutes – May 21st, 2018
5. Public Comment for Non-Agenda Items (3 minutes per person)
6. Staff Update
7. Discussion regarding Staff responsible for Plat Approvals
 - a. Public Comment for Agenda Item (2 minutes per person)
 - b. Discussion
8. Discussion on clarification of certain code sections bearing on land use and development, as contained in Chapters 26, 32, and 38 of the Oconee County Code of ordinances.
 - a. Public Comment for Agenda Item (2 minutes per person)
 - b. Discussion
9. Old Business
10. New Business
11. Adjourn

Anyone wishing to submit written comments to the Planning Commission can send their comments to the Planning Department by mail or by emailing them to the email address below. Please Note: If you would like to receive a copy of the agenda via email please contact our office, or email us at achapman@oconeesc.com.

OCONEE COUNTY PLANNING COMMISSION

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MINUTES

6:00 PM, Monday, May 21, 2018

Oconee County Council Chambers

Members Present

Mr. Kisker District 1
Mr. Gramling District 2
Mr. Vassey District 3
Mr. Pearson District 4
Mr. Johnson At-Large

Staff Present

David Root, County Attorney
Adam Chapman, Zoning Administrator
Media Present: None

1. Call to Order

Mr. Pearson called the meeting to order at 6:00 PM.

2. Invocation by County Council Chaplain

Mr. Root gave the invocation.

3. Pledge of Allegiance

4. Approval of Minutes

- a. May 7, 2018
 - Mr. Kisker – Motion
 - Mr. Johnson – Second
 - The motion carried 5-0

5. Public Comment for Non-Agenda Items

None

Staff Updates

Mr. Chapman stated that he also staffs the Agriculture Advisory Board and pointed out some facts. The American Farmland Trust is predicting a 50% need of food, fuel, and fiber by 2050 since 1992 the Country's lost 31 million acres of prime farmland. Oconee County is second in poultry production in South Carolina, 6th in equine, 8th in cattle, 8th in sheep and 10th in agricultural sales for Oconee County.

7. Discussion on the BZA ad hoc committee's recommendation on notice changes and fee change for BZA hearings.

a. Public Comment for Agenda Item

Mr. Markovich stated that the notice requirements are in the Code of Ordinance and State statute. He also stated he doesn't have any issues with increasing the time limit from 15 days to 21 days, however, have concerns about means of notice because it is laid out in state law and notifying people that don't have standing. Mr. Smith stated the BZA fee structure should be a two-tier system, a high fee for end users that has a market capitalization, the second fee for those that don't have a market capitalization interest. Mr. Codner stated that the summary of the BZA notification requirements that staff has put together is an excellent description of what is necessary for Oconee County.

b. Discussion

Mr. Gramling asked how the proposed changes differ from the state requirements. Mr. Chapman stated that the guidelines we follow are not codified and this is what we go by now:

*Board of Zoning Appeals Notification Process
(For Variances and Special Exceptions)*

ACTION

Legal notice: 15 days in advance of public hearing

Local newspaper LEGAL BASIS

Oconee County Codes/Zoning Ordinance

Section 38-6.2

SC Local Government Comprehensive Planning Enabling Act

Section 6-29-790 and 800

*Property Posting: one sign per street frontage (on or adjacent to property affected) SC Local Government Comprehensive Planning Enabling Act
Section 6-29-790*

Letter notification to property owners within 250' radius of subject property Oconee County unofficial policy. This requirement does not appear in County code. State law does not require notice to individual property owners.

Written notice of regular meetings at beginning of each calendar year

SC Freedom of Information Act (S.C. Code 30-4- 10)

Agenda is posted at least 24 hours prior to a BZA meeting at County office

SC Freedom of Information Act (S.C. Code 30-4- 10)

Notify persons, organizations and news media that request meeting notifications SC Freedom of Information Act (S.C. Code 30-4- 80)

Mr. Chapman stated that this is what the ad hoc recommended:

*38-6.3 Board of Zoning Appeals notification process- AD-HOC RECOMMENDATIONS
Public Notification*

Planning and Zoning staff shall, at least 15 calendar days before the scheduled meeting:

1. Legal Advertisement - Place a legal advertisement in a local newspaper that:

- a. Identifies the time, date and location of the board of zoning appeals meeting.*
- b. Identifies the project location requesting the meeting by parcel-I.D. number and physical address, if available.*
- c. Identifies the reason for the meeting.*
- d. Provides County Planning staff contact information*

Planning and Zoning staff shall, at least 21 calendar days before the scheduled meeting:

2. Public Signage - Produce a sign, at least nine-square feet in size that identifies the party asking for the BZA meeting, what the BZA meeting is for (variance, special exception), the project location (address and parcel -I.D.), time and location of the BZA meeting, and a contact phone number of County Planning Staff. The signs should include 4-inch high lettering that states the type of request, VARIANCE, SPECIAL EXCEPTION, or CELL TOWER.

The signs shall be:

a. Placed, at least one sign, along with each road frontage that abuts the property asking for the BZA hearing, and at least one more sign, as needed at staff's discretion, to provide adequate notification for area property-owners and residents.

3. Adjacent landowner notification -

For a variance request: County Planning staff shall produce and mail letters to all landowners that are directly adjacent to the proposed project site that:

- a. Identifies the proposed project site*
- b. Identifies the need for the BZA hearing*
- c. Identifies the time and location of the BZA hearing*
- d. Provides County Planning staff contact information*

For a special exception: County Planning staff shall produce and mail letters to all landowners that own property two parcels-deep from the proposed project site that:

- a. Identifies the proposed project site*
- b. Identifies the need for the BZA hearing*
- c. Identifies the time and location of the BZA hearing*
- d. Provides County Planning staff contact information*

Sec. 32-134. - General requirements.

(n) For communication tower applications, balloon testing and computer-generated viewshed analysis/ rendering to provide a visual representation of the proposed structure on the proposed site shall be provided as part of the application package by the applicant.

Sec. 32-133. - Communications tower and antenna permitted.

(a) Determination by community development director or his designated staff representative (collectively "director"). All applications for tower placement must be submitted to the director for review. Applications must be complete and shall include all of the materials required by this article (application requirements) and must meet all applicable requirements and/or conditions in this article before an application will be processed. Incomplete applications will be returned to the applicant. Under the following circumstances, the director may administratively approve applications for placement of towers and associated antennas:

(1) As a communication tower and/or antenna in any district co-located on existing towers or structures.

(2) As co-locations on existing electric utility company transmission line towers (such as Duke Power Company towers) which increase the height of the towers by no more than 20 feet.

(3) As a tower in a site preselected by the board as a recommended location based upon the county's county-wide communication tower site study.

(4) As an individual communication tower and associated antennas that do not exceed 75 feet in total height.

- Place a recommendation on the application for a BZA hearing that "Variance and Special Exception applicants should informally meet with property owners potentially impacted by the request to explain the request and answer any questions. This is not mandatory"

38-6.3 Board of Zoning Appeals notification process - STAFF RECOMMENDATIONS

Public Notification

Planning and Zoning staff shall, at least 21 calendar days before the scheduled meeting:

1. Legal Advertisement - Place a legal advertisement in a local newspaper that:

a. Identifies the time, date and location of the board of zoning appeals meeting.

b. Identifies the project location requesting the meeting by parcel-I.D. number and physical address, if available.

c. Identifies the reason for the meeting.

d. Provides County Planning staff contact information

2. Public Signage - Produce a sign, at least nine-square feet in size that identifies the party asking for the BZA meeting, what the BZA meeting is for (variance, special exception), the project location (address and parcel -I.D.), time and location of the BZA meeting, and a contact phone number of County Planning Staff. The signs should include 4-inch high lettering that states the type of request, VARIANCE, SPECIAL EXCEPTION, or CELL TOWER.

The signs shall be:

a. c Placed, at least one sign, along with each road frontage that abuts the property asking for the BZA hearing, and at least one more sign, as needed at staff's discretion, to provide adequate notification for area property owners and residents.

3. Adjacent landowner notification - County Planning staff shall produce and mail letters to all landowners within a 250' radius of the project areas property lines that

a. Identifies the proposed project site

b. Identifies the need for the BZA hearing

c. Identifies the time and location of the BZA hearing

d. Provides County Planning staff contact information

Sec. 32-134. - General requirements.

(n) For communication tower applications, balloon testing and computer-generated view-shed analysis/ rendering to provide a visual representation of the proposed structure on the proposed site shall be provided as part of the application package by the applicant.

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(1) As a communication tower and/or antenna in any district co-located on existing towers or structures.

(2) As co-locations on existing electric utility company transmission line towers (such as Duke Power Company towers) which increase the height of the towers by no more than 20 feet.

Mr. Kisker asked Mr. Root if what is being proposed would contradict state law and if the new requirements could get the County in legal trouble for spelling things out. Mr. Root stated that there's nothing that is truly contradictory unless thinking of a 15-day requirement being contradictory with a 21-day requirement they're not equal but it's not going less than State requirements, the 250 foot radius is different it is not in the State law, the size of the sign is different, number of postings is different these are all extras. Mr. Root stated that the purpose was to make sure the notifications are to more not less. Mr. Chapman showed the Commission how the radius is measured through the Assessor's Office mapping tool. The Commission members discussed the word should be replaced with encouraged in regards to having an applicant for a communication tower meet with affected neighbors. Mr. Kisker asked if the 250' radius issue was resolved. Mr. Root suggested changing the word radius to adjacent land owner's notification that the planning staff to notify landowners within 250 feet of the project areas property lines. Mr. Vassey made a motion to approve the staff recommendations with those changes discussed Mr. Gramling seconded the motion. The vote was unanimous 5-0. Mr. Pearson asked for discussion on the fee change for the BZA. Mr. Kisker asked Mr. Root about the difference in fees for a special exception versus a variance. Mr. Root stated they should be correlated at least pretty tightly the fees versus the amount of time it takes to provide the service. Mr. Kisker made a motion to change the fee from \$100.00 to \$200.00 Mr. Pearson seconded the motion. The vote was unanimous 5-0.

8. Discussion on clarification of certain code sections bearing on land use and development as contained in Chapters 26, 32, and 38 of the Oconee County Code of Ordinances.

a. Public Comment for Agenda Item

Mr. Markovich stated that he understands the staff concerns about someone subdividing parcels without going through the proper process and doesn't have any issues with the definitions or submittal. He also stated that under Minor Subdivisions, B. would not be enforceable, and has a problem with one access for three lots.

b. Discussion

Minor Subdivisions: Mr. Johnson took issue with several of the provided points and stated that some of this language is a violation of private property rights. Mr. Johnson asked to table this for a future meeting Mr. Gramling seconded the motion. The vote was unanimous 5-0.

38-9.3: Staff presented a challenge had regarding the language about the Control-Free District being exempt from the same setback requirements that all other zoning districts are held to. Mr. Chapman showed the issue to the Planning Commission. Mr. Pearson made a motion to replace the existing language in 38-9.3 to read "The control free district shall be exempt from the provisions of this section except provisions listed under item (2) Setbacks." Mr. Johnson seconded the motion. The motion passed 4-0 with Mr. Gramling abstaining.

9. Old Business

None

10. New Business

None

11. Adjourn

Mr. Kisker made a motion to adjourn seconded by Mr. Pearson. The vote was unanimous 5-0
7:06 pm

32-212 Definitions and 32-213(g) Requirements and Standards

Minor Subdivisions

The following minimum requirements have been established for all new Minor subdivisions to ensure that the development of these lots will protect public health and safety and the orderly development of the surrounding area.

Definition:

A Minor Subdivision is the division of property and/or the creation of new dwelling units up to 10 in number (This is in line with our definition of *Subdivision*). The Minor Subdivision process may not be used a second time within two years within original property boundaries without utilizing the standards and submittal process for Major Subdivision if total number of lots or units or combination thereof would constitute a Major Subdivision.

Submittal:

Preliminary Plans may be required for any minor subdivisions that involve the creation of new private or public roadways. Preliminary Plans may be required for any minor subdivision that involves the upgrading of an existing driveway to drive or drive to road, weather public or private. Final plans shall be submitted for all Minor Subdivisions. ~~All roadway construction or upgrades must be made prior to final approval of the development or utilize section 32-219 Security in lieu of completion of improvement.~~ There is some language, but is not as clear as it could be, already in the code that speaks to this issue. Planning and Zoning staff will receive input and approvals from any additional departments or agencies, as needed. As well:

- A. Each lot must conform to all applicable zoning regulations and Land Development regulations.
- B. The development does not violate the intent of the Subdivision or Zoning Ordinances.

Access:

Individual lot/dwelling access is limited to one driveway per three lots and/or dwelling units onto County or State Arterial and Collector roadways. Internal roadway systems are encouraged when adjacent to an arterial or collector roadway. While this may not have traction at the moment, South Carolina is number one in deaths per mile driven, again. The creation of as many curb-cuts as a developer wishes, along **MAJOR** roadways, is not recommended from a traffic and safety point-of-view.

(Arterial road means a major road that serves as an avenue for circulation into, out of, or around the county; typical number of average daily traffic (ADT) exceeds 5,000.)EXAMPLE - HWY 123

(Collector road means a road that has the primary purpose of gathering traffic from intersecting local roads and handling movements to the nearest arterial road; a secondary function is to provide direct access to abutting properties. Typical number of average daily traffic (ADT) exceeds 800.)EXAMPLE - KEOWEE SCHOOL ROAD

Current language in the Code of Ordinances

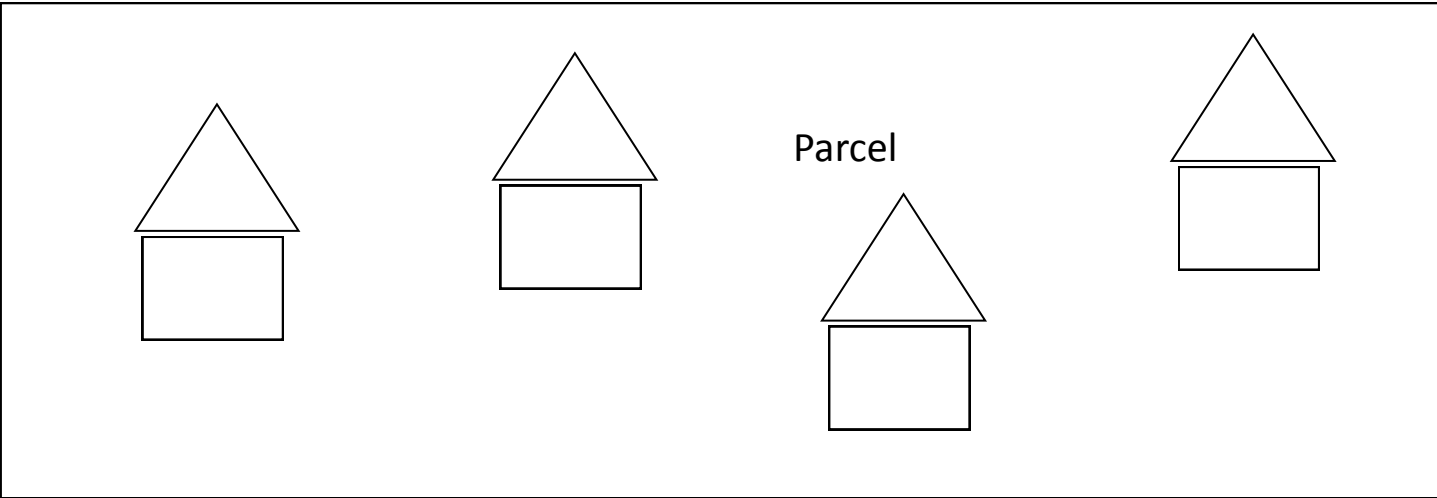
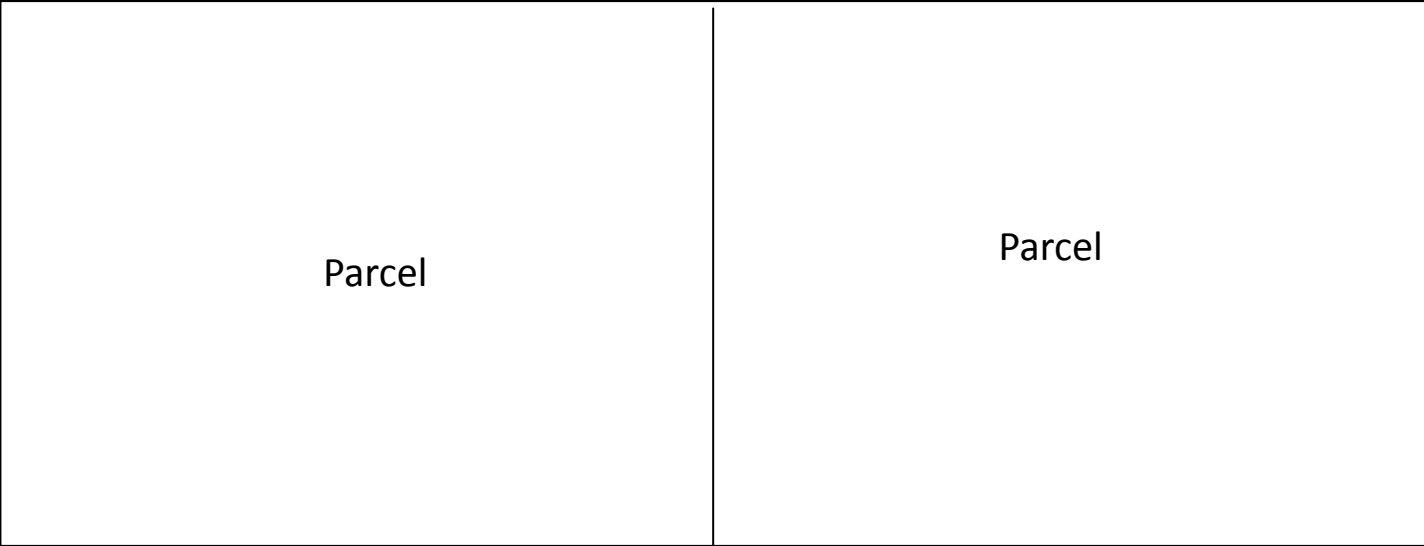
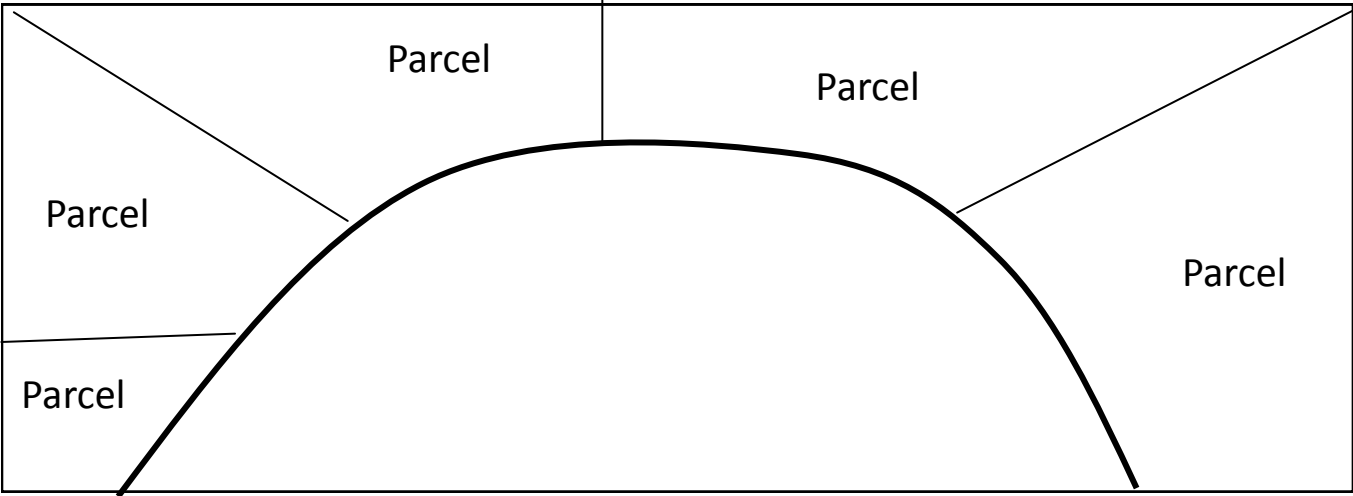
Subdivision means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose (whether immediate or future) of sale, lease, or building development; including all division of land involving a new roadway or an alteration in an existing roadway. Also instances in which the further division, relocation of lot lines, or the rearrangement (including combinations of lots) of any lot or lots within a subdivision previously approved or recorded according to law. The alteration of any roadways or the establishment of any new roads within any subdivision previously approved or recorded according to law. A subdivision can include townhouses, condominium complexes, apartment complexes and multi-family housing.

The following exceptions are included within this definition only for the purpose of requiring that the local planning agency be informed and have a record of the subdivision:

(1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to the standards of the county; (2) The division of land into parcels of five acres or more where no new street is involved and plats of these exceptions must be received as information by the county planning commission which shall indicate that fact on the plats; and (3) The combination or recombination of entire lots of record where no new street or change in existing streets is involved.

Compliance with road standards. Road plans and supporting documentation needed to comply with all adopted the county road standards shall be included with the submission of subdivision plans. Approval of the subdivision shall not be granted unless all applicable road standards are met.

DRAFT



R.V. and Mobile Home Park possible parameters

1. **Definition:** "X" number of mobile home or mobile home hookups per parcel constitutes a Mobile Home / RV park.
2. **Minimum lot size :** A mobile home/ RV park must be at least "X" acres.
3. **Open Space requirement:** At least "X%" of the park must be dedicated open space
4. **Parking:** Each mobile home /R.V. site must be provided "X" amount of off street parking area.
5. **Spacing:** Mobile homes / R.V. shall be at least "X" number of feet apart.
(Fire Code is 10' apart)
6. **Electricity :** Must have it active.
7. **Supervision:** Must have it.
8. **Roads :** Build to public/private standards
9. **Submittal :** As a subdivision (minor or major)
10. **Other** _____

32-212 Definitions and 32-213(g) Requirements and Standards

Minor Subdivisions

The following minimum requirements have been established for all new Minor Subdivisions to ensure that the development of these lots will protect public health and safety and the orderly development of the surrounding area, **while working to minimize overuse of access points onto state and county roadways.**

***The intent of this ordinance is with regards to developers doing multi-home or multi-lot, development FOR SALE or LEASE.**

***This should be written in such a way as to make it clear that it is not the intent of this ordinance to inhibit private uses of one's personal property.**

***Property which is not being developed for resale may not be subject to these provisions.**

Definition:

A Minor Subdivision is identified as consisting of one of the following two actions:

- 1). A Minor Subdivision can be any division of real property, and/ or
- 2) A Minor Subdivision can be the creation single family, townhome, condo, or of similar type and style dwelling units up to 10 in number on an individual parcel or multiple parcels for sale or lease.

Submittal:

With regards to this section, I think the following should be considered and worded into the ordinance.

*** This section should describe that this is not intended for personal use dwelling units, where the property is not being separated for sale.**

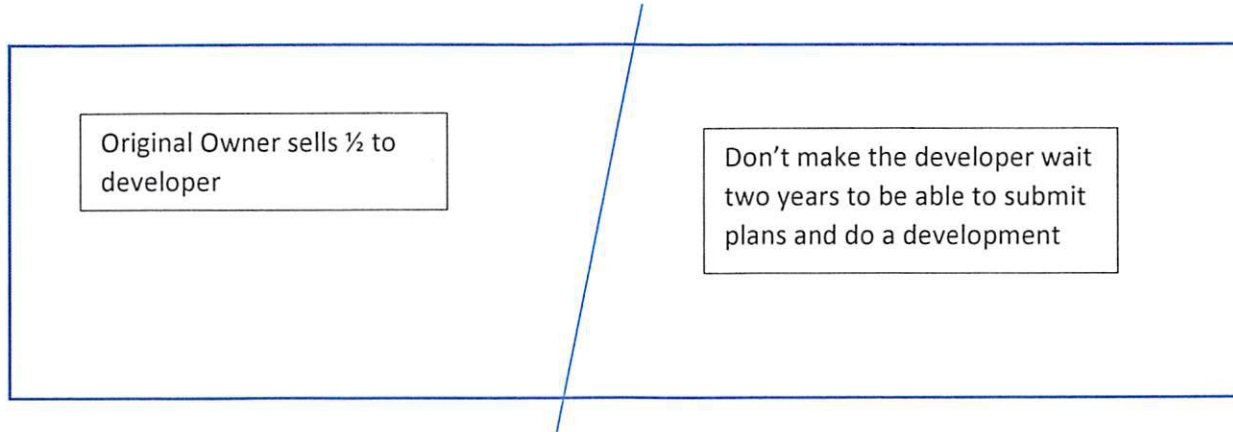
*** Preliminary Plans may be required if the Minor Subdivision INCLUDES the creation of private or public roadways or the upgrade to existing roadways. i.e. If they are planning on the addition of a road, or are planning ot upgrade a road, you should know about it.**

(The county should not request road plans simply because someone is building a guest house)

*** This is the section where it should describe... When developing property for sale, submittals are to be done at this time, and that the process may not be used a second**

time by the original owner within two years if any subdivision of the original property was sold off.

(You don't want to penalize a developer who buys a piece from the original and that developer can't develop for two years.



Access: I would suggest removing this all together. The county should be limited in their authority over State and Private roads, period.

* I think that considerations should be made for "Private Roads" and "Private Drives" and "Private Driveways", as well as State maintained roads in the wording. If this state issues the permit for single family residential use, why is the county getting in the way?

* I think this Access issue should possibly be restricted to Condo /Townhomes /Apartments and Major Subdivisions.

* Surveyors use the language on their survey...

"-Private Drive, shown on this plat SHALL be a private access not owned, maintained, or supervised by Oconee County and not constructed pursuant to any plan for future acceptance by Oconee County. All easements and right-of-ways shown upon this plat Shall not be accepted for maintenance by Oconee County at any time in the future, unless constructed as a Public Road in accordance with the Oconee County ordinances."

If a surveyor includes this language, then I don't think it's the right of the County to tell an owner what dwelling structures they can and can't privately put on their land.

* According to the current language, if there are three owners on one drive, none of the owners can have a second dwelling structure on their property. THIS IS NOT OK and should be strongly considered when wording the ordinance.

Problem to address and need for Minor Subdivision as I understand it...

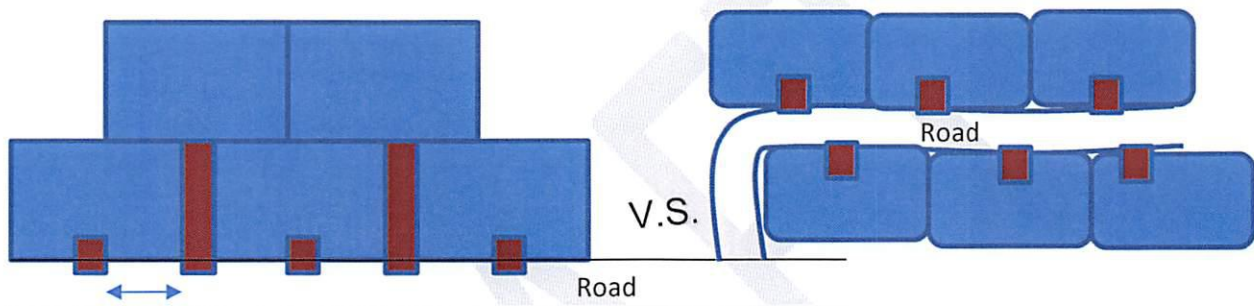
It is my understanding the intent it to stop Developers from cutting corners on roads, which would negatively impact an area. "Roads" and "Developers" being the subject.

However, our definition and this document does not specifically address the Developer and actually can affect anyone and everyone for unexpected reasons.

ISSUE #1

Exhibit A...

This would be an example of what has been described as a problem from developers.



The first sample might be bad if this were $\frac{1}{2}$ acre lots. However, the document being discussed does not differentiate by density. For example, if the first example were 10 to 20 acre parcels where the drives were at a significant distance away, as much of our county is, what is the harm in an owner separating out parcels for their kids. This current document, if I'm reading it correctly, could prevent a large parcel owner from giving land to their family without potentially having to build a road to access the existing road.

ISSUE #2

The Definition in our document A Minor Subdivision is the division of property **and/or the creation of new dwelling units** up to 10 in number.

"Dwelling Units" has been described and defined as ... meaning one or more rooms connected together and constituting a separate, independent housekeeping establishment, with provisions for cooking, eating and sleeping, and physically set apart from any other rooms or dwelling units in the same structure.

Examples could include:

-Pool House that contains a bathroom, and bar area, where the bar includes a sink and outdoor cooking area.

- Tack Room or field hand quarters in the barn. Have you ever looked up Tack Room, you could often live in one full time. But for our example, if you have a bathroom, and a sink/coffee/hotplate, and a bunk for waiting for a fold to be birthed, you are at risk of having a Dwelling Unit.

- Separate Mother-in-law apartment in the lower level living area of a home.

- Garage apartment.

- Man Cave

- Guesthouse

- or simply selling off a section of land to family or otherwise.

Under our use and definition, a land owner with any significant acreage who believes themselves to be able to do what they want on their own land, might be subject to constructing a new driveway/roadway, simply because they want to want to add a pool and pool house, or any other feature which would create a "Dwelling Unit".

Exhibit B...

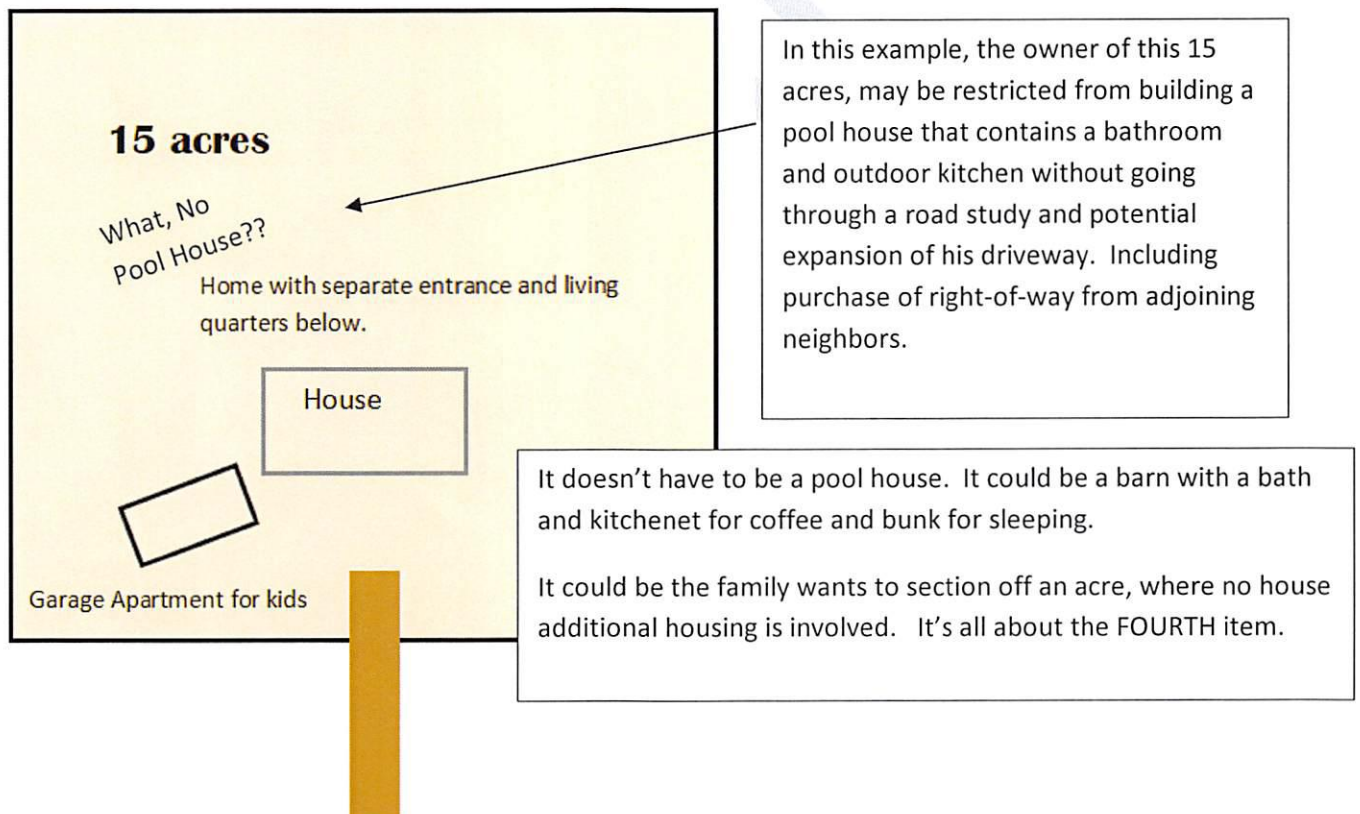
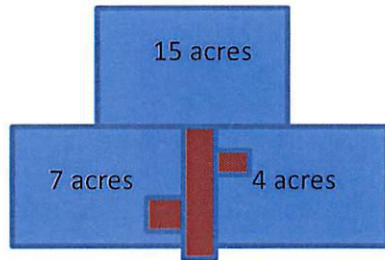


Exhibit C...



Using the original example, considering 10 /20 acre land tracts, potentially none of these owners could subdivide, or add a livable structure to their land if all three used the common drive without potentially having to purchase, a road easement from neighbors, do a road study, potentially build a new wider road, etc.

This ordinance could create a real hardship for a family, financially preventing them from sectioning off a parcel to give to their child, even though the child had been living at home and the traffic count doesn't change.

According to Oconee County Ordinance 2013-16

Private **Driveways** shall have no more than three residential dwellings. If we add the term "Dwelling Units", could this alter the interpretation of the ordinance.

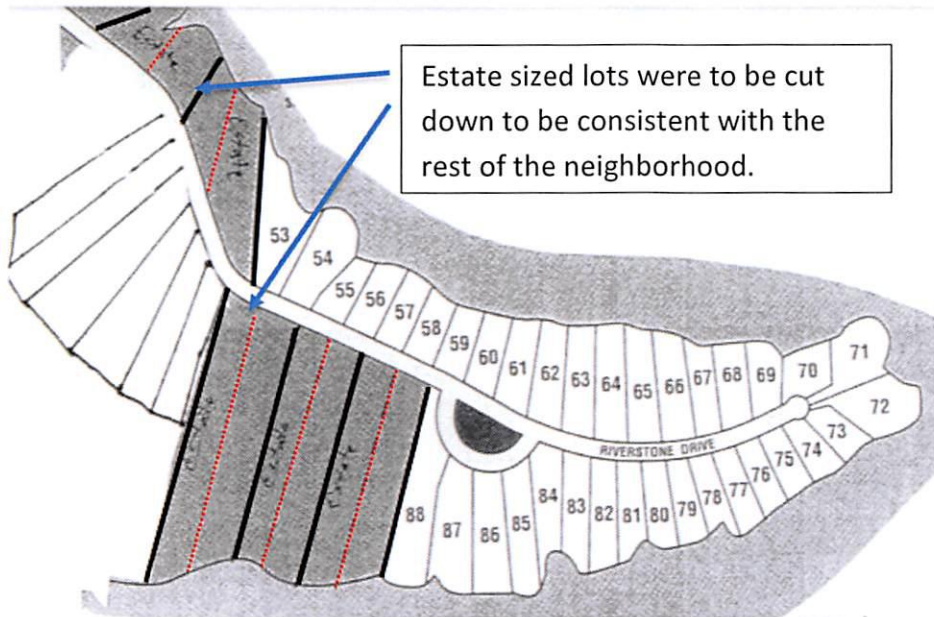
(Anything over 3 lots or three "Dwelling" structures changes everything. You must now have a Private DRIVE as a minimum.)

Private DRIVE shall meet the following standards:

- 1) Serve no more than 10 lots or dwellings.
- 2) Have a minimum road right-of-way of 50'
- 3) Have an encroachment permit from either county or state.
- 4) Have a drivable surface of 20' with at least 5" of crushed stone.
- 5) Documentation from an engineer certifying weight limit of bridges and culverts.
- 6) If a culvert is over a perennial stream there must be appropriate signage showing weight loads.
- 7) Have 100 feet of sight distance for every 10 miles in speed where drive intersects public road. (State DOT might be different)
- 8) Drive shall meet all storm water management and sediment control regulations.
- 9) Be approved in writing by the planning commission.

Issue #3

Exhibit D...



In this real-life example, an owner of 12 lots in a neighborhood with over 100+ lots total, wanted to subdivide his “estate sized lots” of 4+ acres each, to 2+ acre lots to be more consistent with the rest of the neighborhood. Each of 5 lots with over 200’ of road frontage, were to be subdivided in half. This was a 100+ lot community approved by the county with roads that met or exceeded county standards. The HOA restrictions explicitly allowed for this provision on these 5 lots.

Had this policy been in place and these lots submitted as a total project, the county would or could require the owner to go through the expense and hardship of a road study, storm water study, culvert evaluation, etc. on something the county had already approved over 10 years old.