



ZA21-28

April 26, 2021

City of Gulf Shores Planning and Zoning Department  
205 Clubhouse Drive Suite B  
P.O. Box 299  
Gulf Shores, AL 36542

Attn: Zoning Board of Adjustments

**Re: Clarification to Zoning Ordinance Section 11-10.D**

Dear Board Members,

Engineering Design Group, LLC (EDG) request clarification to the zoning ordinance section 11-10.D. as it relates to submitted applications and future applications. What areas are to be excluded from the density calculation?

This request is an appeal of City Staff's determination of this section of the ordinance.

Should you have any questions please don't hesitate to contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Dichiara".

David Dichiara, PE

Engineering Design Group

Enclosures: Page 11-7 Article: Specific Use Regulations



# GENERAL APPLICATION - PLANNING & ZONING DEPARTMENT

Each application type has an accompanying checklist which specifies the information required in order for the application to be processed. Before completing the application, please review the checklist and submit all the information required with your application.

### 1. Project Information

PROJECT NAME: submitted/future projects PROJECT SIZE IN ACRES: n/a

DESCRIPTION OF REQUEST: Appeals to Zoning Board of Adjustments

\_\_\_\_\_  
\_\_\_\_\_

### 2. Property Information

Address: submitted/future projects

Tax Parcel #(s) \_\_\_\_\_ PPIN # (s): \_\_\_\_\_

Existing Use: \_\_\_\_\_ Proposed Use: \_\_\_\_\_ Zoning: \_\_\_\_\_

### 3. Developer Information (Applicant will serve as the sole contact for all correspondence from the City.)

#### Applicant

#### Property Owner

Name: \_\_\_\_\_ Name: \_\_\_\_\_

Address: \_\_\_\_\_ Address: \_\_\_\_\_

Phone #: ( ) \_\_\_\_\_ Fax #: ( ) \_\_\_\_\_ Phone #: ( ) \_\_\_\_\_ Fax #: ( ) \_\_\_\_\_

Email : \_\_\_\_\_ Email : \_\_\_\_\_

#### Engineer

#### Architect

Name: Engineering Design Group Name: \_\_\_\_\_

Address: 21106 US Hwy 98, Foley, AL Address: \_\_\_\_\_

Phone #: (251) 943-8960 Fax #: ( ) \_\_\_\_\_ Phone #: ( ) \_\_\_\_\_ Fax #: ( ) \_\_\_\_\_

Email : dichiara@edgalabama.com Email : \_\_\_\_\_

General Instructions for Completing the Planning and Zoning Application

1. All plans and application requirements shall be submitted via the Gulf Shores Online Licensing and Permitting Portal <https://www.gulfshoresal.gov/747/PZ-PermitsApplications>.
2. All submittals shall be complete upon submittal. The department will not accept pieces or parts of an application submittal. If the application is incomplete or if all required supporting documentation is not submitted, it will not be placed on an agenda.
3. The correct fee shall be submitted or the application will not be processed.
4. The Applicant will serve as the contact for all correspondence from the City. It is the Applicant's sole responsibility to distribute said correspondence to individuals or consultants involved in the submittal.
5. Applicant shall refer to individual check lists for complete submittal requirements.

By signing below, I hereby certify that I have read the above information and attest that the information provided herein and on the submitted plans and documentation is true and correct to the best of my knowledge and understand that any omissions or inaccurate information can cause this application to be rejected or delayed.

**APPLICANT PRINT NAME:** Engineering Design Group

**APPLICANT SIGNATURE**  **Date:** 4/26/2021

**PROPERTY OWNER PRINT NAME:** N/A

**PROPERTY OWNER SIGNATURE:** \_\_\_\_\_ **Date:** \_\_\_\_\_

*To be completed by Planning and Zoning Department Staff*

Received By: \_\_\_\_\_ Date: \_\_\_\_\_

Payment:      Cash      Check No. \_\_\_\_\_ Amount: \_\_\_\_\_

If the applicant has any questions or concerns regarding this application, please contact the following staff members.

STAFF MEMBER	TITLE	TELEPHONE	FAX	EMAIL
Andy Bauer	Zoning Admin.	251.968.1151	251.968.1188	<a href="mailto:abauer@gulfshoresal.gov">abauer@gulfshoresal.gov</a>
Jennifer Watkins	Planner	251.968.1154	251.968.1188	<a href="mailto:jwatkins@gulfshoresal.gov">jwatkins@gulfshoresal.gov</a>
Mell Davis	Admin. Assistant	251.968.1164	251.968.1188	<a href="mailto:mdavis@gulfshoresal.gov">mdavis@gulfshoresal.gov</a>

those which may be modified as specified within this Section.

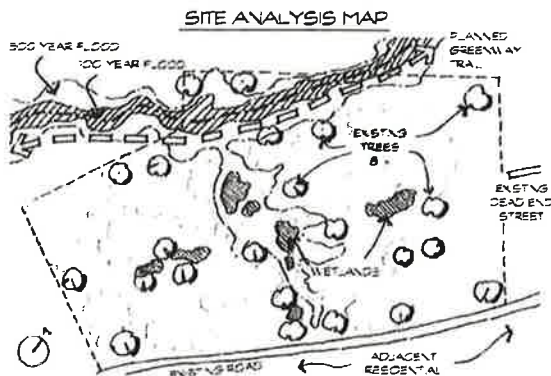
**C. Ownership of Development Site.** The tract of land to be subdivided and/or developed may be held in single, separate, and multiple ownership. If held in multiple ownership, the site shall be developed according to a single plan with common authority and common maintenance responsibility as approved by the City Attorney.

**D. Density Determination.** The maximum number of Lots shall be determined by the minimum Lot size of the Applicable District, the minimum Lot size as required by City or County Health Department Standards for septic tank use (or similar Density limitation where applicable), or the maximum Density of the Applicable District, whichever is most restrictive. Furthermore, density determination shall also take into account the amount of land necessary for internal streets and other subdivision requirements. In making this calculation, the following shall not be included in the total acreage of the Parcel:

1. Bodies of open water over 5,000 sf of contiguous area, and
2. Wetlands, as defined by the City or by the Army Corps of Engineers pursuant to Section 404 of the Clean Water Act.

**E. Application Requirements.**

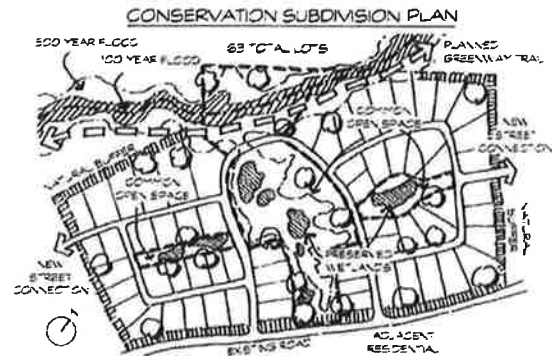
1. **Site Analysis Map Required.** Concurrent with the submission of a subdivision plat, the Applicant shall prepare and submit a site analysis map. The purpose of the site analysis map is to ensure that important site features have been adequately identified prior to the creation of the site design, and that the proposed Open Space will meet the requirements of this Section. The site analysis map shall include those items required by the CDD for Conservation Subdivision Preliminary Site Plans.



Site Analysis Map

2. **Conservation Subdivision Plan.** The developer shall prepare a Conservation Subdivision plan which yields

no more Lots than identified under §11-10D. The Conservation Subdivision plan shall identify Open Spaces to be protected in accord with §11-10F and may include Lots which do not meet the size and Setback requirements of the Applicable District. The Conservation Subdivision Plan shall include an Open Space management plan, as described in §11-10E and shall be prepared and submitted prior to the issuance of a land disturbance permit.



Conservation Subdivision Plan

3. **Instrument of Permanent Protection Required.** An instrument of permanent protection, such as a conservation easement or permanent restrictive covenant and as described in this §11-10F, shall be placed on the Open Space concurrent with the issuance of a land disturbance permit.
4. **Other Requirements.** The Applicant shall adhere to all other applicable requirements of the Applicable District and the Subdivision Regulations.

**F. Open Space Management Plan.** For the purposes of Conservation Subdivisions, Open Space is defined as the portion of the conservation development or subdivision that has been set aside for permanent protection. Activities within the Open Space are restricted in perpetuity through the use of a legal instrument approved by the City Attorney.

1. **Standards to Determine Open Space.**

- a. The minimum restricted Open Space shall comprise at least twenty-five (25) percent of the gross tract area.
- b. The following are considered Primary Conservation Areas and are required to be included within the Open Space, unless the Applicant demonstrates that this provision would constitute an unusual hardship and be counter to the purposes of the Conservation Subdivision:

- (1) Riparian zones of at least 75 ft width on each side from the centerline of every perennial and intermittent stream shown on the United

**From:** [Andy Bauer](#)  
**To:** [Lee W. Jones](#)  
**Subject:** FW: Gulf Shores Conservation Subdivision Regulations Question  
**Date:** Friday, April 23, 2021 8:47:51 AM

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Below is our consultants reply.

**Andy Bauer, AICP**

Zoning Administrator  
P.O. Box 299  
205 Clubhouse Drive Suite B  
Gulf Shores, Alabama 36542  
[www.gulfshoresal.gov](http://www.gulfshoresal.gov)

251-968-1151 desk  
251-968-1188 fax



**From:** Fondren, Jason [mailto:jfondren@kpsgroup.com]  
**Sent:** Thursday, April 22, 2021 5:13 PM  
**To:** Andy Bauer <abauer@gulfshoresal.gov>  
**Subject:** Re: Gulf Shores Conservation Subdivision Regulations Question

In determining the potential number of lots, you would need to estimate the land area necessary for street rights-of-way and subtract that from the gross tract area before dividing by the minimum lot size of the district. That requires doing a conceptual design of the subdivision to determine the total amount of street right-of-way.

Another way is to estimate the amount of street right-of-way per lot and divide the total tract acreage by the sum of the minimum lot size and the street area per lot. A simple way of doing this (not exact but pretty close) is to multiply the minimum lot width by 25 ft (one half of a 50 ft right-of-way) and add that to the minimum lot size. Divide the total tract area by that sum and you have the total number of allowable lots. It is not precise because it doesn't take into account corner lots (which have more street right-of-way along them) or lots on cul-de-sacs (which have slightly less street right-of-way than typical interior lots), but it balances out more or less. If you require wider street right-of-ways, use that rather than 50 ft.

Does that make sense?

Jason Fondren, AICP  
Vice President, Principal Planner  
KPS Group, Inc.

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**From:** Andy Bauer <[abauer@gulfshoresal.gov](mailto:abauer@gulfshoresal.gov)>  
**Sent:** Thursday, April 22, 2021 11:57 AM  
**To:** Fondren, Jason  
**Subject:** Gulf Shores Conservation Subdivision Regulations Question

Hello Jason;

I hope this email finds you well.

I have a question about Gulf Shores' conservation subdivision regulations that were written by KPS. The section we are seeking clarification on reads:

*D. Density Determination. The maximum number of Lots shall be determined by the minimum Lot size of the Applicable District, the minimum Lot size as required by City or County Health Department Standards for septic tank use (or similar Density limitation where applicable), or the maximum Density of the Applicable District, whichever is most restrictive. Furthermore, density determination shall also take into account the amount of land necessary for internal streets and other subdivision requirements. In making this calculation, the following shall not be included in the total acreage of the Parcel:*

- 1. Bodies of open water over 5,000 sf of contiguous area; and*
- 2. Wetlands, as defined by the City or by the Army Corps of Engineers pursuant to Section 404 of the Clean Water Act.*

What is the intent of this statement, "density determination shall also take into account the amount of land necessary for internal streets and other subdivision requirements?"

Thanks for your assistance.

**Andy Bauer, AICP**

Zoning Administrator  
P.O. Box 299  
205 Clubhouse Drive Suite B  
Gulf Shores, Alabama 36542  
[www.gulfshoresal.gov](http://www.gulfshoresal.gov)

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location at the entrance to the park, a sign advising all occupants to the park of the requirements of this Section.

§11-11. Conservation Subdivisions.

A. Intent.

1. To provide the flexibility to achieve the most effective development on lands that are constrained by natural hazards ~~or by~~ environmental regulations which may limit the amount or type of development on such properties;
2. To enhance quality of life by promoting the creation of accessible greenspace throughout the community;
3. To protect sensitive, environmental land features to protect the health and safety of residents and neighboring property owners;
4. To reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation;
5. To encourage interaction within the community by allowing clustering of homes and orienting them closer to the street, thereby providing gathering places and encouraging the use of parks as focal points within the community;
6. To encourage street systems that tend to reduce traffic speeds and reliance on main arteries;
7. To promote construction of convenient walking trails, bike paths, and greenways within new developments that are connected to adjacent neighborhoods and activity centers to increase accessibility for pedestrians and bicyclists; and
8. To reduce perceived density by providing a maximum number of lots with direct access to and views of open space.

B. Applicability. The Conservation Subdivision option is available as a use by right in all residential zoning districts. The applicant shall comply with all other provisions of this Ordinance and all other applicable regulations, except those incompatible with the provisions herein. *who decides, what?*

Ownership of Development Site. The tract of land to be subdivided and/or developed may be held in single, separate, and multiple ownership. If held in multiple ownership, the site shall be developed according to a single plan with common authority and common maintenance responsibility as ~~appropriate to the project.~~

Density Determination. The maximum number of lots shall be determined by dividing the total area of the proposed Conservation Subdivision by the most restrictive of the following: minimum lot size of the applicable district or by regulations as determined by City and/or County Health Department standards for septic tanks, or by other density limitations, such as watershed protection requirements, as applicable to the site. In making this calculation, the following shall not be included in the total area of the parcel:

*of park  
significant  
tree stands*

*Arbitrarily  
Not in the  
program  
water tank etc.  
may be  
City  
park  
park  
park*