



## Agenda Abstract

Department: Planning

Authorizing Signature: \_\_\_\_\_

Submitting Official: Jason Sullivan

Meeting Date:	2-21-11
Subject:	Request for a revision to an existing conditional use permit by Colvard Farms Homeowner's Association, located at 9310 NC Hwy 751, for multiple revisions.
Action Requested:	See Recommendations
Attachments: (List Individually)	Application Information distributed prior to the 1-18-11 public hearing.

Introduction & Background:	<p><b><u>(Planning Board comments/discussions are in BOLD)</u></b></p> <p>A public hearing was held on this request January 18, 2011. No one spoke on the issue.</p> <p><b>The Planning Board met at the regularly scheduled meeting on February 1, 2011. There was no one present or that spoke on the request.</b></p> <p><b>Planning staff presented the request and various components as outlined in these notes. The Planning Board asked clarifying questions regarding the additional 50 foot buffer between the development and the US Army Corps of Engineer's property. Staff advised them it was put in place mainly for safety as hunting is allowed on these lands.</b></p> <p><b>The Planning Board had one concern regarding the non-residential subdivision lots for the utilities serving the development. There appears to be a section of land that will fall between two of the proposed lots and they asked for clarification if the Homeowner's Association would still control that portion of open space. They were advised they would and also Duke Power has an easement through much of that area which would remain.</b></p>
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**There were no other concerns raised by the Board. The Planning Board recommended approval of the conditional use permit revision as submitted by vote of 10-0-0 unanimously.**

Colvard Farms was approved as a major subdivision, RA-40 Planned Unit Development, in March 2001. Since that time there have been a few modifications approved to the conditional use permit. Part of this development is located within the jurisdiction of Durham County, but the majority is located within Chatham County's jurisdiction. More than 80% of the development is adjacent to public lands managed by the US Corps of Engineers. Due to this a 50 foot undisturbed buffer was required along the Corps property and an additional 50 foot building setback was required as part of the original conditional use permit approval.

In 2010, a property owner applied for a zoning compliance permit to build a gazebo in the rear of their property, which was to be placed within the 50 foot building setback buffer. The permit was not approved because of the 50 building setback. The owner was allowed to construct a gazebo with no roof, because the Zoning Ordinance definition for a building reads "Any structure having a roof supported by walls or columns constructed or used for a residence, business, industry or other public or private purposes."

Colvard Farms is also requesting to amend the sketch design to allow for three non-residential lots for their water and sewer utilities so they can be conveyed to a management company. A reduction in the minimum lot size requirements for the district must also be approved for one of the utility sites. Staff discussed the subdivision request with the County Attorney and he agreed that the subdivision modification could be processed under the pre-December 2008 Subdivision Regulations.

There will be an easement serving the non-residential utility lots that has also been reviewed and approved by the Technical Review Committee.

### Discussion & Analysis:

There are five findings that must be met with a conditional use permit or revision request. Those findings are listed below with the staff discussion.

Finding 1 - "The use requested is among those listed as an eligible



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conditional use in the district in which the subject property is located or is to be located." Colvard Farms is a planned unit development that allows clustering. The addition of the three non-residential lots is consistent with the original approvals and will serve existing utility infrastructure. It is planning staff opinion this finding has been met. The applicant has based the remaining four findings on Finding #1. Planning staff has addressed each one in more detail as they pertain to this request.

Finding 2 - "The requested conditional use permit is either essential or desirable for the public convenience or welfare." The applicant has requested to change wording in two of the approved conditions for the development. That change is to replace "building" in conditions 1 and 2 with "dwelling". This would allow homeowners/property owners the opportunity to utilize more of their land by allowing roofed structures, other than a dwelling, to be constructed. The 50 foot undisturbed buffer adjacent to Corps property would remain, as well as the 50 foot building setback, except it would only apply to dwellings not accessory structures/buildings. Planning staff will recommend wording for the requested change in the recommendations below.

The homeowner's association intends to transfer the utilities to a private management company and therefore needs the parcels to be legally subdivided. The parcels are #83070, 83069, and 80443. Planning staff recommends approval of the request and the reduction in lot sizes for the community water system site only and that the lots be served by a 25 foot wide utility easement.

Finding 3 - "The requested permit will not impair the integrity or character of the surrounding or adjoining districts, and will not be detrimental to the health, safety, or welfare of the community." Since the utilities have been installed and no new construction is required, Planning staff recommends approval of the request to modify the sketch design for the three non-residential lots. Planning staff does recommend alternate wording for the use of the 50 foot building setback buffer for other structures. The recommendation is to include accessory dwellings, in addition to dwellings, to replace the word building. It is planning staff opinion this finding has been met or will be met through conditions.



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	<p>Finding 4 - "The requested permit will be consistent with the objectives of the Land Development Plan." The Land Conservation and Development Plan encourages the continuation of existing uses. Page 21 of the Plan states in order to minimize sprawling development, relatively greater residential densities should be allowed in the more rapidly developing parts of the county located closer to major employment centers and served by major highways and other public infrastructure. Colvard Farms is accessed by NC Hwy 751 at the Durham County line where higher density residential and commercial areas exist. It is planning staff opinion this finding has been met.</p> <p>Finding 5 - "Adequate utilities, access roads, drainage, sanitation, and/or other necessary facilities have been or are being provided." A community water and sewer system has served the properties in Colvard Farms since its approval. All access roads remain valid and the proposed 25 foot wide easement for the utilities is also acceptable.</p> <p>There will be no changes to impervious surface with the major subdivision request. It is planning staff opinion this finding has been met.</p>
Budgetary Impact:	None
Recommendation:	<p>Planning staff and the Planning Board recommend approval of a resolution amending the existing conditional use permit with the changes to the conditions as listed below:</p> <ol style="list-style-type: none"><li>1) A 50-foot undisturbed buffer area has been established along the outside property line adjacent to the public lands managed by the US Army Corps of Engineers and is shown on recorded plats.</li><li>2) A 50-foot rear setback for dwellings or accessory dwellings, in addition to the 50 foot undisturbed buffer, is established and is shown on recorded plats.</li><li>3) Within the required minimum 50-foot dwelling and/or accessory dwelling setback area, there is a restriction prohibiting the cutting of trees 18 inches or greater in diameter. This shall be documented in the Declaration of Covenants, Conditions, and Restrictions of Colvard Farms Subdivision.</li></ol>



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4) All other conditions as approved shall remain valid and in effect at all times.
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