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ARTICLE 6. SUBDIVISION STANDARDS

SECTION 6.1. GENERAL PROVISIONS

A. PURPOSE AND INTENT

The general purpose of this Article is to establish standards relating to the subdivision of land in the City in order to promote the public health, safety, and general welfare, and to implement the goals and policies of the City's adopted plans. More specifically, this Article is intended to:

- (1) Ensure the orderly growth and development of the City;
- (2) Ensure the layout or arrangement of subdivisions and land development conform to the requirements of this Ordinance and the City's plans, regulations, and maps;
- (3) Provide for the coordination of transportation networks and utilities in subdivisions with external transportation facilities and utilities;
- (4) Establish appropriate standards for street widths and grades;
- (5) Ensure adequate easements and rights-of-way are provided for drainage and utilities;
- (6) Provide for open space through the efficient design and layout of land; and
- (7) Encourage creative subdivision design that accomplishes these purposes in an efficient, attractive, and environmentally sensitive manner.

B. APPLICABILITY

- (1) Any subdivision requiring review and approval in accordance with Section 2.5.B(2), Minor Subdivision, or Section 2.5.B(3), Major Subdivision, shall comply with the standards and requirements in this article.
- (2) Any deviations or variations from the standards in this article shall be in accordance with Section 2.5.D(1), Variance – Zoning, Section 2.5.D(2), Variance – Watershed Protection, or Section 2.5.D(3), Administrative Adjustment.

SECTION 6.2. GENERAL SUBDIVISION STANDARDS

A. COMPLY WITH APPLICABLE STANDARDS

- (1) Subdivisions shall comply with all applicable standards in this Ordinance, including, but not limited to density and dimensional standards in Article 3: Zoning Districts, and standards in Article 5: Development Standards that pertain to subdivision, including Section 5.1, Mobility, Circulation, and Connectivity Standards; Section 5.3, Landscaping and Buffer Standards; Section 5.4, Open Space Set-Aside Standards; Section 5.7, Form and Design Standards; Section 5.10, Stormwater Management Standards; Section 5.11, Sustainable/Green Building Standards; and Section 5.12, Sustainable/Green Building Incentives.
- (2) Subdivisions shall comply with all applicable standards in the LDSM.
- (3) Subdivisions shall comply with the City's adopted Fire Code. Fire flows and hydrant locations shall be determined by the Kannapolis Fire Department.

B. STREET DESIGN

Public and/or private streets shall be designed in accordance with Section 5.1, Mobility, Circulation, and Connectivity Standards, and the LDSM.

C. UTILITIES

Standards for the design and installation of public utilities shall be in accordance with the LDSM.

D. PRIVATE ACCESS EASEMENTS

Any private access easement serving the lot, parcel, or tract acquired from intervening property owners shall comply with the following requirements:

- (1) The easement shall have a minimum width of 12 feet, or, if use for ingress/egress and water or sewer, 20 feet;
- (2) The easement shall have an all weather surface of gravel, concrete, brick, or asphalt with a minimum continuous width of ten feet and a minimum overhead clearance of 12 feet to ensure access of public service, utility, and emergency personnel and vehicles; and
- (3) The recorded documents creating the easement shall:
 - a. Specify that public service, utility, and emergency personnel and vehicles shall have freedom of ingress and egress from the property;
 - b. Specify that utilities (i.e., natural gas, electricity, telephone, cable) may be installed within the easement;
 - c. Include a statement specifying the party responsible for maintaining the easement and its traveled surface; and
 - d. State that the easement shall be kept free and clear of any and all obstructions that would in any way impede vehicular traffic.

SECTION 6.3. LOT AND BLOCK DESIGN STANDARDS

A. PURPOSE AND INTENT

This Section establishes standards to guide the design and review of proposed developments involving the layout or development of lots and relationship to streets, alleys, pedestrian ways, and other public facilities.

B. BLOCK STANDARDS

All blocks shall comply with Section 5.1, Mobility, Circulation, and Connectivity Standards.

C. LOT STANDARDS

(1) GENERAL

- a. Lots shall meet zoning district standards and shall be designed for their potential uses.
- b. Side lot lines abutting a public or private right-of-way shall, to the extent practicable, run at right angles to the right-of-way line.

(2) CORNER LOTS

Side lot lines of lots abutting a public or private right-of-way shall, to the extent practicable:

- a. Run at right angles to the right-of-way line; or
- b. In the case of a cul-de-sac or curvilinear street right-of-way, radial to the curve.

(3) LOT FRONTAGE

- a. Every lot resulting from a subdivision of land shall abut and have direct access to a publicly maintained street, other public right-of-way legally dedicated, or private street with a public access easement unless the lot faces open space and is accessed via a rear alley, or unless otherwise required or permitted in this section. Where a public street right-of-way was dedicated prior to January 1, 2000, and the street was never improved to City standards, access to up to one residential lot may be provided from the dedicated right-of-way if it is improved to City standards, except paving shall not be required.
- b. Where a proposed subdivision includes frontage on a thoroughfare street, up to five lots in the subdivision may have access to the thoroughfare street, provided such access shall be provided by shared driveways to the extent practicable. Any additional lots in the subdivision shall be served by a newly constructed internal public street.
- c. Frontage on a public street shall not be required for any of the following lots if an easement or other right-of-way providing access to the public street is recorded and submitted with the application for development approval:
 - 1. Townhome lots where the individual lots are separated from a public right-of-way by a strip of land under common ownership by the owners of the townhome lots;
 - 2. Lots fronting on approved private streets;
 - 3. Lots fronting onto open space with access provided by a rear alley; and
 - 4. A lot of record existing on January 8, 2001 without public street frontage, if the resulting lots comply with all standards of the zoning district where they are located. The created lot may be developed only for one single-family residence and may not be subdivided.

(4) FLAG LOTS

Flag lots are allowed in subdivisions only in accordance with the following standards:

- a. Flag lots may be used only when necessary to develop irregularly shaped properties or sites with physical limitations. In no case shall more than five percent of the lots in a subdivision be flag lots.
- b. The minimum width of the "pole" portion of a flag lot shall be 12 feet, or, if used for ingress/egress and water or sewer, 20 feet.

(5) CUL-DE-SAC LOTS

Any lot located on a cul-de-sac that does not maintain the minimum required width along the public street frontage shall provide:

- a. Lot frontage of at least 50 percent of the minimum required, but in no case less than 25 feet;
- b. Lot area equal to or greater than the minimum lot area for the zoning district where the lot is located (if a minimum lot area is specified); and
- c. The minimum required lot width at the building line.

SECTION 6.4. CLUSTER SUBDIVISION STANDARDS

A. PURPOSE AND INTENT

These Cluster Subdivision standards provide an alternative to standard development practices. Cluster Subdivisions locate clusters of development on lots that are smaller than would otherwise be permitted under conventional development regulations, with the remaining land being retained as common open space. The permanent, common open space, legally dedicated through subdivision plat recordation and deed restriction, can be used for natural conservation and protection of water resources, and/or recreational facilities for community benefit. The cluster development option is intended to provide flexibility in the design of residential developments and achieve a quality of development that could not be achieved under conventional subdivision design. (See Figure 6.4.A: Illustration of Cluster Subdivision Concept). The standards in this section are intended to:

- (1) Provide for the efficient use of land and the preservation of open space and farmland;
- (2) Provide for development in harmony with the natural features of the land;
- (3) Protect high value natural areas;
- (4) Protect water resources by minimizing land disturbance and creation of impervious surfaces and stormwater runoff; and
- (5) Encourage the efficient use of infrastructure.

Figure 6.4.A: Illustration of Cluster Subdivision Concept



B. APPLICABILITY

- (1) Cluster Subdivisions shall comply with the standards in this section.
- (2) Cluster Subdivisions shall be mandatory for all major subdivisions on parcels greater than 30 acres located in the Cluster Residential and Conservation Neighborhood character areas on the Future Land Use and Character Map in the Comprehensive Plan.
- (3) Cluster Subdivisions are permitted outside of areas specified in subsection (2) above, only in accordance with an approved conditional zoning, planned development, or special use permit for lands in the AG, R1, R2, or R4 districts:

C. GENERAL STANDARDS

- (1) A minimum of 30 percent of the total project area shall be set aside as common open space in accordance with subsection D below.
- (2) The minimum lot size, minimum lot width, and minimum building setbacks in the base zoning district may be reduced by up to 20 percent.

- (3) The maximum residential density and maximum impervious surface area of a Cluster Subdivision shall be that of the base zoning district established in Article 3: Zoning Districts.
- (4) Lots shall be organized into clusters in accordance with subsection E below.
- (5) The development shall be served by a public water system and a public sewer system.

D. OPEN SPACE

- (1) Required open space set-asides shall count toward the minimum open space set-aside requirements in Section 5.4, Open Space Set-Aside Standards, and shall comply with all other standards in Section 5.4, Open Space Set-Aside Standards.
- (2) In Residential and Planned Development districts, a maximum of 25 percent of the total open space set-aside area may consist of lands that the Planning Director determines cannot be developed because they contain wetlands, bodies of water, dedicated easements or rights-of-way (except those existing to only protect underground utilities such as water or sewer lines), or similar features.
- (3) Open space set-asides designed for active recreation (e.g., tennis courts) shall be set back a minimum of 60 feet or screened from view from residential lots.
- (4) The following notation shall be placed on all open space set-asides on the subdivision plat: "Designated open space, not to be further subdivided or used for future building lots."

E. LANDSCAPING AND BUFFERING

A planted buffer providing the minimum visual separation of a Type B perimeter buffer yard (see Section 5.3.G(3), Buffer Types Defined) shall be established around the entire perimeter of a Cluster Subdivision and shall be designated as either undisturbed, conservation easements, or designated open space on a subdivision plat. The following additional provisions shall apply to any buffer yard:

- (1) Buffer yards designated as common open space on a subdivision plat may be credited toward required open space set-asides.
- (2) Except in active recreation areas, existing healthy trees over 12 inches in diameter in areas designated as open space set-asides shall be preserved and protected in the same manner as specimen trees under Section 5.3.J(9), Tree Protection During Construction.
- (3) Landscaping and buffering shall comply with the requirements of Section 5.3, Landscaping and Buffer Standards.

SECTION 6.5. GUARANTEES, BONDS, AND SURETIES

A. INSPECTION OF IMPROVEMENTS

- (1) During the preparation of land and the installation of public improvements and site improvements, as appropriate, periodic inspections shall be made to ensure conformity with the approved plans, specifications, and standards. Appropriate agencies of the City and state may make inspections at any time during the progress of work.
- (2) All improvements required by this article shall be inspected prior to acceptance by the City. The applicant shall provide the Director of Engineering with written reports of each final inspection made by other individuals or agencies.
- (3) Prior to beginning construction, the applicant shall arrange with the Director of Engineering a pre-construction meeting for the purpose of coordinating construction activities.

- (4) The applicant shall notify the Director of Engineering of the commencement of construction of improvements one full working day prior to commencement. Inspections shall be required at each of the following stages of construction or as otherwise determined through an owner contract or development improvement agreement:
 - a. Site grading/erosion control completion;
 - b. Underground utility installation;
 - c. Subgrade preparation prior to aggregate base installation;
 - d. Aggregate base compaction;
 - e. Concrete curb and gutter installation;
 - f. Bituminous binder placing; and
 - g. Final surfacing prior to seal coat.
- (5) The applicant or the bonded construction contractor shall bear full and final responsibility for the installation and construction of all required improvements according to the provisions of these regulations and the standards and specifications of other public agencies.

B. ACCEPTANCE OF IMPROVEMENTS

- (1) Approval of the installation of improvements by the Director of Engineering shall not constitute acceptance by the City of the improvement for dedication purposes. The installation of improvements in any subdivision shall, in no case, serve to bind the City to accept such improvements for maintenance, repair, or operation. Such acceptance shall be subject to the existing regulations concerning the acceptance of each type of improvement.
- (2) The specific standards for acceptance of easements shall be subject to the technical design standards of this Ordinance, the LDSM, and any other adopted policy or manual of the City. All easements shall be in full compliance with this Ordinance prior to acceptance.
- (3) The City shall not have any responsibility with respect to any street, or other improvement, even if it is used by the public, unless the street or other improvements have been accepted by the City.
- (4) When improvements have been constructed in accordance with the requirements and conditions of these regulations and the specifications of this article, and the applicant has submitted as-built drawings to the Director of Engineering, the City Council shall consider accepting the improvements for maintenance by the City, unless the improvements are maintained by another entity.
- (5) These provisions shall not be construed to relieve the subdivider or the subdivider's agent or contractor of any responsibility in notifying any agency for the City of completed work and formal request for inspection of same. The agency having jurisdiction shall inspect and approve all completed work prior to the release of any applied performance sureties.

C. SITE CLEANUP

The applicant shall be responsible for removal of all equipment, material, and general construction debris from the subdivision site and from any lot, street, public way or property therein or adjacent thereto. Construction debris shall be disposed of in accordance with state and local regulations.

D. SUBDIVISION IMPROVEMENT AGREEMENTS

- (1) The Director of Engineering shall be responsible for the review and approval of all residential Subdivision Improvement Agreements.

- (2) The Director of Engineering may delay the requirement for the completion of required improvements prior to recordation of the final plat if the applicant enters into a Subdivision Improvement Agreement by which the applicant covenants and agrees to complete all required on-site and off-site public improvements no later than one year following the date upon which the final plat is recorded. Such period may be extended for up to an additional 180 days upon its expiration, at the discretion of the Director of Engineering. The applicant shall bear the responsibility to prepare a Subdivision Improvement Agreement. The City Attorney shall approve any Subdivision Improvement Agreement as to form.
- (3) In order to provide for emergency access, no Zoning Clearance Permit is to be issued until the base course for the streets within the applicable phase for which a final plat is proposed has been installed.
- (4) At the discretion of the Director of Engineering, the City may enter into a Subdivision Improvement Agreement with the applicant for a residential development containing multiple final plats concerning the timing and sequence of roadway, water, wastewater, drainage, and park or open space dedication and improvements. Notwithstanding any provision in this Ordinance to the contrary, the Subdivision Improvement Agreement shall determine the time when the required improvement or dedication for multiple final plat developments shall occur.
- (5) Whenever the Director of Engineering permits an applicant to enter into a Subdivision Improvement Agreement, the applicant shall be required to provide a performance guarantee to ensure completion of the required public improvements. The performance guarantee shall be in the form of an irrevocable letter of credit, performance bond (subject to approval by the City Attorney and the Director of Engineering), or cash escrow.
- (6) The performance guarantee shall be in an amount determined by the Director of Engineering to be 125 percent of the cost of the improvements in the approved construction plan and sufficient to cover all promises and conditions contained in the Subdivision Improvement Agreement. The applicant shall submit an executed contract from a North Carolina licensed contractor, made assignable to the applicant and the City. The Director of Engineering shall have the opportunity to review and accept the estimates of work to be completed prior to approval.
- (7) In addition to all other security, when the City participates in the cost of an improvement, the applicant shall provide a performance bond from the contractor, with the City as a co-obligee.
- (8) The issuer of any surety bond shall be subject to the approval of the City Attorney and the Director of Engineering.
- (9) If the performance guarantee is provided in the form of a cash escrow, the applicant shall deposit with the City Attorney a cash amount or certified check endorsed to the escrow agent for a face value in an amount not less than the amount specified by the Director of Engineering as required by Section 6.5.D(6).
- (10) The cash escrow account shall accrue to the City for administering the construction, operation, and maintenance of the improvements.
- (11) Where oversized facilities are required, the Director of Engineering and applicant shall specify a reimbursement procedure in the Subdivision Improvement Agreement.
- (12) The duration of the performance guarantee shall be one year unless the developer determines that the scope of work necessitates a longer duration. If the improvements are not completed to specifications, and the performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended or a new guarantee issued in an amount equal to 125 percent of the estimated cost of incomplete improvements for the duration necessary to complete the required improvements.

- (13) Upon completion of all improvements as covered by the Subdivision Improvement Agreement, the Director of Engineering shall inspect the work. If the Director of Engineering determines that the work is satisfactory and complete, the performance guarantee shall be released. The Director of Engineering shall also require evidence from the subdivider that all contractors have been paid in full prior to the release of the performance guarantee. Upon approval, the Director of Engineering shall permit either a one-time release or incremental release of the performance guarantee.

E. FAILURE TO COMPLETE IMPROVEMENTS

If a Subdivision Improvement Agreement has been executed, security has been posted, and required public improvements are not installed pursuant to the terms of the Agreement, the Director of Engineering may do any one or more of the following:

- (1) Declare the Agreement to be in default 30 days prior to the expiration of the guarantee instrument, and require that all public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;
- (2) Obtain funds pursuant to the surety and use them for the completion of the public improvements; or
- (3) Exercise any other rights available under the law.