



AGENDA
Ordinance Advisory Board Meeting
June 1, 2022 - 3:30 PM
TOWN HALL (101 HUNTERSVILLE-CONCORD ROAD)

Virtual Meeting Information- *Members of the public may view or access the meeting on Facebook Live at <https://www.facebook.com/HuntersvilleNCTownGovernment>. If you would like to speak at the upcoming meeting during public comment, please send your name and email address to Tracy Barron tbarron@huntersville.org by 3:00 pm on the day of the meeting, to be added to the speaker's list. The Town will use your email address to send you an email invitation from Ring Central. This will allow you to call in and/or access the meeting to deliver your comments (the 3-minute time limit still applies). In addition, the Town will receive written comments below by email to Tracy Barron tbarron@huntersville.org until twenty-four (24) hours prior to the meeting.*

1. Roll Call/Quorum

2. Adoption of Minutes

2.a. Consider adoption of the May 5, 2022, Regular Meeting Minutes. *(Tracy Barron)*

3. Public Comments

4. New Business

a. Continued discussion of TA 22-05, a request by the Huntersville Town Board to remove the quasi-judicial process for major subdivision sketch plans and make it an administrative staff approval. There are also several minor edits related to State Statute references and rewording of provisions that are not substantive in nature.

b. Discussion related to stormwater runoff from new development impacting adjoining property

5. Other Business

6. Adjourn

Minutes of the Town of Huntersville Ordinance Advisory Board

The Town of Huntersville Ordinance Advisory Board met virtually at 3:30 p.m. on Thursday, May 5, 2022.

Call to Order/Roll Call

Chairman Jones called the virtual meeting to order at 3:30 pm.

Voting Members Present: M. Jones, T. Taylor, T. Finlay, F. Gammon, A. Hallman, K. Jones, J. Kluttz, B. Skelly, H. Whittaker

Non-Voting Members Present: Commissioner Munger, J. Simoneau, E. Sloop, T. Barron

Approval of Minutes

Item 2A. Consider approval of the April 7, 2022, Regular Meeting Minutes

Motion: B. Skelly made a Motion to Approve the April 7, 2022, minutes. A. Hallman seconded the motion.

Vote: The motion passed unanimously (9-0).

Public Comments

No comments.

Action Agenda

Item 4A: Consider a recommendation on TA22-05, a request by Huntersville Town Board to remove quasi-judicial process for major subdivision sketch plans and make it an administrative staff approval. There are also several minor edits related to state statute references that are rewording of provisions that are not substantive in nature.

J. Simoneau, Planning Director reviewed that this request is being proposed at the request of the Huntersville Town Board that would require extensive changes to the Subdivision Ordinance and Zoning Ordinance.

The Town Board continued the Public Hearing on this item to June 6, 2022. There were a lot of questions regarding this proposed change.

The School of Government states that the subdivision process must be either objective or if any standards are subjective, requiring judgment or discretion, then it must be quasi-judicial. The state statutes state that if the decision is administrative then it may be assigned to staff or any appointed Board. However, if the decision is quasi-judicial it has to be assigned to a governing Board, Planning Board or Board of Adjustments that is appointed pursuant to the chapter.

The UNC report from December 2020 containing the results of the 2018 survey showed that 72% of the 275 jurisdictions that were surveyed had only objective standards, 28% had subjective/discretionary standards.

Subdivision of land is a three-step process. The sketch plan is general in nature and reflects roads, lot layouts, and concepts for stormwater. The developer holds a neighborhood meeting. The Planning Board makes a recommendation and then it goes to the Town Board as a quasi-judicial decision. Once that subdivision is approved then the developer prepares a preliminary plan. Once that is administratively approved the infrastructure is installed and then the applicant returns for a final plat.

This proposal is to create objective standards for the subdivision sketch plan process, maintain the neighborhood meeting to notify nearby residents of what is being developed, and then administratively approve the development if it meets the standards.

Staff reviewed the current Section 6.200 General Requirements which are things the developer shall do. The proposed amendment would create a Section 6.200(A) Guidelines and a Section 6.200(B) Requirements.

Staff drew attention to the current Section 6.200, Item 1. Consistency with adopted public plans and policies which staff and the Legal department have reviewed as an item that could be moved to the proposed Section 6.200(B) Requirements. Additionally, any requests to modify traffic impact standards; variances, appeals, interpretation from the Subdivision Ordinance would continue as they are currently to be Town Board decisions.

Chairman Jones requested that Commissioner Munger relate a synopsis of the Town Board discussion related to this topic from the Town Board May 2, 2022, meeting. Commissioner Munger stated the Board struggles with this topic greatly. There is a desire to have some input as to what type of developments can be approved and have some negotiating ability and the difficulty of not having any discussions prior to the hearing causes a lot of angst among the Board and residents. Additionally, one of the issues is someone who wants to come before the Board during quasi-judicial must have a determination of standing which is not always clear. There has been discussion about moving these hearings to the Board of Adjustments which would allow the Town Board to have discussion prior to the hearing but they would have no say in how the Board of Adjustments decides and their decision is final.

It appears that there are three options related to the proposed amendment to the process. To either leave it with the Town Board as quasi-judicial, shift it to the Board of Adjustments as quasi-judicial, or join the 72% of the state and make it an administrative decision with objective standards and essentially if you check all the boxes, you can build it. Currently he has not formed an opinion as to what he thinks would be the best decision and he looks forward to hearing what the Ordinance Advisory Board discussion is on this.

F. Gammon restated that one of his questions was if the quasi-judicial process moved to the Board of Adjustments, if the Town Commissioners could then speak with constituents which from Commissioner Mungers comments sounded like they could though they would have no impact on the Board of Adjustments decision.

F. Gammon then asked if the hearing went to the Planning Board is there an appeal process to their decision? E. Sloop responded that it depends on if it remains quasi-judicial. All quasi-judicial appeals go to the court.

F. Gammon asked if the process becomes administrative if Planning Staff takes the Community Plan, Small Area Plan and impact upon residents into the consideration or if the standards are strictly the Ordinances. Staff confirmed that the current Section 6.200, Item 1. Consistency with adopted plans and policies, could be adjusted to fall under Section 6.200(B) General Requirements as something administration would consider in approval. This would include the Huntersville 2040 Community Plan.

E. Sloop followed up to point out that if this item is moved and becomes a General Requirement then there would only be two remaining items that would be Guidelines; Conformity and Relation to topography. All other standards would become objective decisions under General Requirements.

A. Hallman asked if the General Guidelines would be relevant if this process becomes administrative as the developer would not be required to apply those. Staff stated that there are recommendations within the ordinances to highlight their importance but the developer is not required to do them. E. Sloop stated that all proposed projects under conditional rezoning would be able to discuss/negotiate for changes in the development plan for that individual site. A. Hallman asked if this conditional rezonings are a legislative versus quasi-judicial process. E. Sloop confirmed that is correct and stated many proposed subdivisions complete a conditional rezoning first and then submit a subdivision plan.

A. Hallman asked how a developer would find themselves under a quasi-judicial hearing. Staff responded that the current standards are discretionary which requires the process to be quasi-judicial. E. Sloop stated that it is largely due to how some of these requirements are worded. She provided an example of the current language which states, "as so far as practicable" which is a subjective standard versus a objective standard such as "20 foot setback" that you either meet or you do not.

A. Hallman asked if sketch plans would still be required if the process is no longer quasi-judicial. Staff confirmed that we would still have the requirement, but it would be an objective approval either by staff, a technical review committee, or a Board. E. Sloop added that if the standards were objective and approved administratively then if the decision were appealed it would be run through the Board of Adjustment which hears all appeals of administrative decisions made by staff. If you have the administrative decision, go to the Town Board then it would no longer be appealed through the Board of Adjustment it would have to go straight to court. E. Sloop followed up and stated that if the standards become objective, we are not recommending that the decision be made by the Town Board as it would add time to a non-subjective decision, and it removes the Board of Adjustment appeal process.

A. Hallman asked for clarification on the differences between objective and subjective related to wiggle room/negotiations/conversations. E. Sloop stated that when it is purely objective the decision is black and white, either you meet it or you don't. There is no wiggle room in that. However, even when it is quasi-judicial in a by-right subdivision (meaning there is not a conditional rezoning), as long as they meet the requirements they must be approved. Under the current ordinances there really are only a few subjective standards and that is the only current place where there is any wiggle room.

Staff reviewed an example of Mayes Road subdivision and the neighborhood meeting requesting additional buffer due to the existing neighboring lots being much larger. The developer met the minimum requirement. Staff reviewed the conformity section of the ordinance which states it shall be most advantageous to neighborhood. The developer was advised that the neighbors would have standing and could come speak at the meeting to state they don't think the development complies with conformity and the developer would be risking being turned down for the entire development. The developer modified their plan and created the additional buffer.

H. Whittaker stated he has confidence that staff can handle what is being proposed. He expressed concern about the Town Board only being to approve and removing them from the decision altogether does not seem to be what the public would want.

H. Whittaker asked if either the existing or proposed process would allow more citizens to have input. Staff stated that it is their opinion that the neighbors have more input in a quasi-judicial process. E. Sloop stated that simply being a neighbor does not mean that they automatically have standing at an evidentiary hearing. Typically standing is simply the Town, the applicant or property owner, and someone who can prove special damages. Special damages must be proven with specificity. To fully participate in the quasi-judicial hearing the parties must have standing. The neighborhood meeting is an opportunity for the citizens to come out and speak and share their concerns which is a meeting format that is being recommended to continue even if the process becomes an administrative objective process.

K. Jones stated that she watched the quasi-judicial hearing for The Hills subdivision on Asbury Chapel Road and asked E. Sloop to clarify how someone is determined to be a person with standing versus an interested party. E. Sloop responded that the statutes only allow parties that can establish standing to fully participate in the hearing. Once they have established standing they can call witnesses, present evidence, offer rebuttal, etc. If you are a person of interest then you may not participate in the hearing. The Town may allow you to speak in their discretion but anything that someone says typically is not something the Board can rely on to make their decision. The decision must be based on information that is competent material, substantial evidence in the record and typically persons that are just interested are not offering that type of evidence. There may be an occasion where the interested person states something that is not objected to by an actual party.

K. Jones asked what a witness is allowed to say versus an interested party. E. Sloop stated that an interested party with standing may call witnesses. An interested person may be allowed to speak but may not present evidence. Staff stated that following The Hills quasi-judicial case there were great concerns from the Town Board related to staff attending and addressing more of the neighborhood concerns at the neighborhood meeting and to communicate and provide the residents with more information related to how the quasi-judicial process works.

F. Gammon followed up with stating again that the only way the Town Board can have any influence is for the process to remain quasi-judicial so that at least those with standing and possibly interested parties can express themselves to the Board. While either process has their own set of frustrations and limitations, at least the Board gets to communicate with their constituents through the hearing process. Staff responded that if it became administrative the Town Board would be able to attend the neighborhood meetings to listen/speak with people.

Commissioner Munger stated that he appreciates the dialogue. He described the current quasi-judicial setting as the illusion of choice. Unless the item being requested has a fundamental issue with expert testimony and compelling evidence as to why it should be denied, it will be approved. Based on the discussion and the point E. Sloop provided that an administrative decision could be appealed to the Board of Adjustments versus the court, he stated he is leaning towards an administrative decision being the way to go.

A. Hallman asked if the neighborhood meeting would become more of a for your information setting if quasi-judicial goes away. Staff stated that technically the neighborhood meeting is a for your information event now. They referred back to the Mayes Subdivision example and stated that if the process changes to administrative, staff would not have the conformity statement to request plan adjustments

A. Hallman asked how the standing is determined. E. Sloop responded that the state statutes define who has standing and it is the Town, the Town Board, the applicant/land owner and anyone who can establish special damages. More than one person can establish special damages, its just that they have to be established with specific showings of evidence.

A. Hallman recommended that additional examples/education be provided to explain quasi-judicial and what qualifies as standing so that residents can understand the process to identify how they can be heard and perhaps get something done.

T. Finlay stated that the quasi-judicial process seems to protect and make it an even playing field where Board members do not have the ability to impact and influence things as much, he then asked staff if the process becomes administrative what protections would be in place so that Board members would not have the ability to influence staff in the decision. Staff responded that for the decision to be administrative the standards must be objective. They are black and white or yes and no, if it meets the standards then it would be approved, there is no wiggle room or subjectivity.

K. Jones asked if modifications may still be requested of developers if the process becomes administrative. Staff responded they would still request it but the developer would not be required to comply, they would only have to meet the minimums. In the event an issue was identified repeatedly then the only means of change would be to adjust the objective standard in the ordinance.

K. Jones asked if “Conformity” standards as listed in the Subdivision Ordinance could be moved to General Requirements as well since this is one of the main ways that citizens can express their concern and be heard. Staff responded that under the current language it is too subjective. M. Jones followed up and said that defining things like a detrimental effect, most advantageous development, etc. must become objective standards.

K. Jones asked if under the quasi-judicial process the Town Board members are not allowed to have any ex-parte communications, why the minutes from the neighborhood meetings are included in the agenda packets. Staff stated that the Board Members can be provided the information but they are not allowed to use that to make a determination. E. Sloop confirmed that they can use that information to review what questions were raised but it is not considered evidence that they can base their decision on.

K. Jones asked if the process changes to administrative if minutes of the neighborhood meeting will still be recorded and provided with the staff report, and if staff verifies that all relative information is included in the minutes. Staff stated that there would no longer be a need to take the minutes as the decision would become objective and staff, Town Board and Planning Board would be invited to attend the meetings. The nature of a neighborhood meeting is that there are multiple conversations going on at once and the minutes recorded are not verbatim, the goal is to cover the gist of what was discussed and issues that were raised that addresses main topics covered.

K. Jones asked if it is possible to keep the quasi-judicial process but allow citizens to have input. Staff stated that in the past the Town Board has allowed interested parties to provide commentary to understand where the citizens are coming from. E. Sloop added that if everyone is allowed to speak at a quasi-judicial hearing it is a slippery slope because it becomes difficult to determine if a Board member, after hearing so many different things from people without standing, can remain impartial when making the quasi-judicial decision. She referenced the findings emailed to the NC Supreme Court fining Board members for compensatory damages when even one member of a Board is biased in a quasi-judicial decision.

K. Jones expressed her concerns on behalf of the citizen and requirements to be an expert witness, costs involved in hiring someone, and what is required to be heard. Staff responded that there are zoning, lighting, storm water, landscaping, and parking standards to protect the public. M. Jones commented that many of these standards are more restrictive than most of the neighboring municipalities as well. Staff commented that these development standards are in place and developers have the right to develop land as well, if they meet the standards then it is going to get approved.

H. Whittaker asked if a final version of the proposed changes would be provided prior to making a decision and it would be his preference to keep the Town Board involved. E. Sloop recommended the Board first consider if they want the process to remain quasi-judicial or become administrative; and if administrative is selected, then you determine who would make that decision. As discussed, based on the School of Government recommendation, it is recommended that an administrative decision be made by staff to not unnecessarily delay the developer in waiting for a Town Board meeting when it is a simple yes or no decision; and in the event of an appeal, if the decision is made by staff then the appeal would go to the Board of Adjustment versus going straight to court if the decision is made by the Town Board.

Motion: F. Gammon made a Motion to Approve the Subdivision Approval process remain a Town Board conducted quasi-judicial process as stated within the ordinance. K. Jones seconded the motion.

F. Gammon commented that he thinks that the public will have more input if the process remains quasi-judicial and the primary reason for this process to change was out of Commissioner frustration.

A. Hallman agreed that the major frustration was the citizen outcry and it does not seem to get resolved with an administrative decision. At the moment she is not sure the citizens or the Board members can get the communication with either option but at least there is a small amount in the quasi-judicial format.

Vote: The motion failed (4-5) with T. Taylor, T. Finlay, J. Kluttz, B. Skelly, M. Jones opposed.

Motion: T. Finlay made a Motion to Approve the Subdivision Approval process of sketch plan, preliminary plat and final plat move to an administrative process for approval. J. Kluttz seconded the motion.

M. Jones recommended an amendment to the motion with the additional caveat that some of the overriding issues be commented on and the text be thoroughly reviewed in the next meeting. T. Finlay and J. Kluttz accepted the amendment.

M. Jones restated that we are voting only on whether the process should go from quasi-judicial to administrative and not the final version of the proposed text, which we will discuss further at the next meeting.

Vote: The amended motion passed (5-4) with F. Gammon, A. Hallman, K. Jones, and H. Whittaker opposed.

Other Business

T. Finlay asked about returning to in-person meetings. H. Whittaker, K. Jones, T. Taylor, J. Kluttz, F. Gammon, and B. Skelly expressed their support for returning to in-person. Staff stated they

would investigate what option for in-person meeting and streaming are available and report back to the Board. The Board was unanimous to return to in-person meetings (9-0).

Adjourn

Motion: M. Jones made a Motion to Adjourn. A. Hallman seconded the motion.

Vote: The motion passed unanimously (9-0).



Subdivision Ordinance

Adopted November 19, 1996
As Amended Through June 21, 2021 (1-7-22)

Commented [ES1]: Update

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Commented [ES2]: Once we get a final draft, we should double check that all of these pages and headings are still accurate. I changed a few headings below.

SECTION 1.

1.000 PURPOSE AND APPLICABILITY

1.100 SHORT TITLE

This ordinance will be known and may be cited as the Huntersville Subdivision Ordinance.

1.200 PURPOSE

The provisions of this ordinance are adopted pursuant to the authority conferred by Section 160D-801 through Section 160D-808 of the General Statutes of North Carolina for the purpose of providing for the orderly development of the Town of Huntersville, North Carolina and its environs by regulating the subdivision of land. The regulations contained herein are intended to coordinate proposed development with existing development and with officially adopted plans for future development of the town; to coordinate transportation networks and utilities within subdivisions with existing or planned streets or with public facilities; to secure or protect adequate rights-of-way and easements for street or utility purposes; to secure adequate spaces for recreation and school sites; to provide for the distribution of population and traffic in a manner which shall avoid congestion and overcrowding; to protect and enhance environmental quality; to ensure the proper legal description, monumentation, and recording of subdivided land; and to create conditions that substantially promote public health, safety, convenience, and the general welfare.

1.300 JURISDICTION

The provisions of this ordinance shall apply to all subdivision activities, as defined in Section 2.100 of this ordinance, within the corporate limits and the extraterritorial zoning jurisdiction of the Town of Huntersville, North Carolina as now or hereafter established. Any subdivision for which a preliminary plan has been approved by Mecklenburg County prior to becoming subject to the Huntersville Subdivision Ordinance, may, at the option of the developer, be developed in its entirety in accordance with the Mecklenburg County Subdivision Ordinance. Any subdivision for which a preliminary plan has been submitted to Mecklenburg County, but not approved prior to becoming subject to the Huntersville Subdivision Ordinance, shall comply with Huntersville ordinance standards.

1.400 SEPARABILITY

If any section, paragraph, subdivision, clause, or provision of this ordinance is adjudged invalid by a court of competent jurisdiction, such adjudication will apply only to such section, paragraph, subdivision, clause, or provision so adjudged, and the remainder of this ordinance will be deemed valid and effective.

1.500 COMPLIANCE WITH ORDINANCE

All plats for the subdivision of land must conform to the requirements of this ordinance and be submitted in accordance with the procedures and specifications established herein. The description by metes and bounds in an instrument of transfer or other document used in the process of selling or transferring land will not exempt the transaction from compliance with this ordinance. No utility shall be extended, nor any permit be issued by an administrative agent of the Town of Huntersville for the construction of any building or other improvement upon any land for which a plat is required until the requirements of this ordinance have been met and the final plat approved.

1.600 EFFECTIVE DATE

This ordinance shall become effective November 1, 1989.

2.000 DEFINITIONS AND RULES OF CONSTRUCTION

2.100 DEFINITIONS

As used in this ordinance, the following terms will have the meanings indicated in this section:

Alley.

A vehicular way used for providing service access along rear or side property lines of lots which are also served by one of the listed street types defined herein or in Article 5 of the Huntersville Zoning Ordinance. An alley may be accepted for public maintenance only if it serves a broad public function. Residential alleys will generally remain private.

Administrative Decision.

Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this ordinance. These are sometimes referred to as ministerial decisions or administrative determinations.

Appeal.

An action requesting reversal or modification of an interpretation or decision made by Town Staff or Administrative Agent in the application of these regulations.

Board of Adjustment.

The Zoning Board of Adjustment of the Town of Huntersville.

Build-to line.

A line extending through a lot which is generally parallel to the front property line and marks the location from which the principle vertical plane of the front building elevation, exclusive of porches, bay windows and similar appurtenances, must be erected; intended to create an even building façade line on a street. The build-to line is established on the record plat (final plat).

Building Setback Line.

A line extending through a lot which is parallel to the front property line and between which and such line no building shall be erected.

Conservation Easement.

A conservation agreement as defined by N.C.G.S. § 121-35(1) in the form of an easement.

Consulting Engineer.

A North Carolina Registered Engineer appointed from time to time by the Town Board of Huntersville.

Corner Lot.

A lot which abuts the right-of-way of two streets at their intersection.

Designated Administrative Agent (also Designee).

A government agency or consulting professional which has been designated by the Huntersville Board of Commissioners through contract or agreement to administer the Subdivision Ordinance.

Easement.

A grant by the property owner for use by the public, a corporation, or person(s) of a strip of land for specified purposes.

Expedited Subdivision Review.

The review and approval of the division of a tract or parcel of land in ~~single-ownership~~ [single ownership](#) for which only a Final Plat Review is required. Any subdivision of land, whether major, minor, or other will qualify for Expedited Subdivision Review if in single ownership and all of the following criteria are met:

1. The tract or parcel to be divided is not already exempt as a division of land under Section 2.100 DEFINITION, "Subdivision", paragraph 2 of the Subdivision Ordinance (which

- exempts the division of land into parcels greater than 5 acres where street right-of-way dedication or reservation is not involved).
2. No part of the tract of parcel to be divided has been divided under this subsection in the 10 years prior to division.
 3. The entire area of the tract or parcel to be divided is greater than five acres.
 4. After division, no more than three lots result from the division.
 5. After division, all resultant lots comply with all of the following:
 - a. Any lot dimension size requirements of the applicable land-use regulations, if any.
 - b. The use of lots is in conformity with the applicable zoning requirements, if any.
 - c. A permanent means of ingress and egress is recorded for each lot.

Land Development Standards Manual.

The most recent edition of the Town of Huntersville Engineering Standards and Procedures Manual, which sets forth standard details for the design and construction of various aspects of development.

Lot.

A portion of a subdivision or other parcel of land intended as a unit for transfer of ownership or for development.

Lot Front.

That side of a lot which fronts on a street. In the case of a corner lot, the subdivider shall designate the front of the lot for purposes of these regulations and the Huntersville Zoning Ordinance by labeling the front and side building lines as such on the final plat.

Open Space.

Any area which is not divided into private or civic building lots, streets, rights-of-way, parking, or easements for purposes other than open space conservation. Unless specifically allowed by this ordinance in the Farmhouse Cluster, Conservation Subdivisions, and Minor Subdivisions. Reference Article 7.11 Urban, Agricultural, Common, Natural and Recreational Open Space for specific qualitative criteria.

Planning Board.

The Planning Board of the Town of Huntersville established pursuant to [N.C.G.S. § 160D-301](#).

Plat

A map or plan of a parcel of land which is to be, or which has been, subdivided.

Streets (by classification).

Freeway.

High volume, high speed highways with access only at interchanges. Freeways are typically constructed to Interstate Highway standards. May incorporate special management techniques and may contain specialized accommodations for multi-occupant or transit vehicles. No parallel accommodation for non-motorized users.

Boulevards.

Moderate to high volume, moderate speed roadway. Includes median and may incorporate interchanges as appropriate. Access strongly controlled, typically provided at street intersections and may be directional in nature (i.e. not full movement.) Shall incorporate provisions for transit, bicycle, and pedestrian users depending on context.

Other Major Thoroughfares.

Multi-lane, moderate to high volume roadway, speed limits vary according to context. Often incorporate auxiliary lanes for turning vehicles. Typically includes median, individual driveways discouraged. Shall incorporate provisions for transit, bicycle, and pedestrian users.

Minor Thoroughfare.

~~Generally, Usually~~ two-lane roadways with low to moderate speeds depending on context.

Balance of mobility and access functions. May include transit user provisions, shall incorporate non-motorized users.

Collector.

A roadway which assembles traffic from local streets and distributes it to the nearest thoroughfare street. The collector road provides direct primary access to low/medium density land uses. It is designed to carry low to moderate traffic volumes at low to moderate speeds.

Local.

This is a two-lane roadway which provides access directly to adjoining low/medium density land uses. It also conducts traffic to collector streets which serve the area. The local road is designed to accommodate low volumes of traffic at low speeds.

Cul-de-sac.

A short minor street having one end open to traffic and the other permanently terminated by a vehicular turnaround. Cul-de-sacs may not exceed 350 feet in length and must be accessed from a street providing internal or external connectivity. They are permitted where topography makes a street connection impracticable.

Marginal Access Street.

A public or private street adjoining or parallel to an arterial street to relieve the arterial street of the necessity of providing access to abutting property.

Town Streets.

Town Street classification refers to the hierarchy of low speed, interconnected streets with pedestrian orientation of buildings and a fine-grained section which includes street tree plantings and sidewalks on either side of pavement. The required street elements can be assembled in a variety of ways depending on the fronting uses and the function/rank of the street in the hierarchy. Streets meeting the standards of [Article 5](#) and the Engineering Standards and Procedures Manual (ESAPM) are eligible for acceptance and maintenance by the Town as public streets. Residential alleys will generally remain private.

Street, Private.

An interior circulation road designed and constructed to carry vehicular traffic from public streets within or adjoining a site to parking and service areas; it is not maintained nor intended to be maintained by the public.

Street Right-of-Way.

Street right-of-way shall mean any public right-of-way set aside for public travel which has been accepted for maintenance by the State of North Carolina or the Town of Huntersville or Mecklenburg County, if so authorized, or has been dedicated for public travel by the recording of a plat or a subdivision which has been approved or is subsequently approved by the Town of Huntersville or has otherwise been established as a public street prior to the adoption of this ordinance.

Subdivision.

A subdivision will include all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose, whether immediate or future, of sale or building development of any type (including both residential and non-residential multiple building sites and multi-site projects even if there is no division of the underlying land into separate parcels for recordation with the Register of Deeds) and also includes all divisions of land involving the dedication of a new street or a new street right-of-way or a change in existing streets; provided, however, that the following will not be included within this definition nor be subject to the requirements of this ordinance:

1. The combination or recombination of portions of previously subdivided and recorded lots prior to the effective date of this ordinance, or portions of previously subdivided and recorded lots platted in compliance with this ordinance after its effective date, where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this ordinance and the appropriate zoning classification.
2. The division of land into parcels greater than 5 acres where street right-of-way dedication is not involved.
3. The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors or the location of public utility rights-of-way.
4. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where street right-of-way dedication is not involved and where the resultant lots are equal to or exceed the standards of the appropriate Zoning Ordinance classification and Subdivision Ordinance.
5. The division of land into plots or lots for use as a cemetery.
6. The creation of a separate lot or property interest by a less than fee simple instrument, such as a lease, when the property interest created is divided from the original parcel for less than 10 years including option to renew.
7. The division of a tract or parcel into separate tracts or parcels, or the creation of interest in lots or parcels, by means of (a) a deed of trust, mortgage, or similar security interest solely for the purpose of securing any bona fide obligation (including transfers of such parcels or tracts pursuant to foreclosure or deeds in lieu of foreclosure) and (b) releases from the liens and operation of such deeds of trust, mortgages, or similar security interests.
8. Easements for the purposes of utilities, driveways, parking, footpaths, trails, or other similar purposes.
9. Proceedings to partition interests in lots or parcels pursuant to Chapter 46 of the North Carolina General Statutes (or any successor statute) resulting in the division of a lot or parcel into two or more lots or parcels except where the partition proceeding is brought to circumvent the provisions of this Ordinance.
10. Transfers of tracts or parcels by inheritance or bona fide gift.
11. Condemnation or deed in lieu of condemnation, by either a public or private condemner; provided, however, that the condemner must comply with the requirements of this

Commented [ES3]: Edits made to more closely align with 160D-802

ordinance as to the property acquired, either prior to the commencement of any development of the property acquired, or prior to the issuance of any building permit on the property acquired, or within six months following the date of acquisition, whichever occurs first.

Subdivision, Conservation

A tract of land 40 acres or more that is subdivided into single family building lots at a gross density not exceeding 1 dwelling unit per 20 acres, where no new streets are created through the development process and use of the land is restricted by an irrevocable conservation easement held by a conservation organization authorized by N.C.G.S. [§ 121-35\(1\)](#) et seq.

Subdivision, Limited.

A subdivision that is not otherwise exempt from the provisions of this ordinance and where the tract or parcel of land retained by the owner submitting the land for subdivision approval is in excess of ten (10) acres. For such subdivisions the owner shall be required to plat only the parcel(s) to be transferred or leased and only said parcel(s) shall be subject to the requirements of this ordinance.

Subdivision, Major.

A subdivision not otherwise exempt from these regulations that involves any of the following:

1. The creation of any new public street but does not include the public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors or the location of public utility rights-of-way.
2. A future public school, park, greenway, or open space site shown in any adopted plan or policy document.
3. A multi-building site.
4. The installation of drainage improvements through one or more lots to serve one or more other lots.
5. The installation of a private wastewater treatment plant or a private water supply system for more than one lot or building site.

Subdivision, Minor.

A subdivision that is not otherwise exempt from the provisions of this ordinance and that is not a “Major Subdivision” as that term is defined in this Ordinance.

For purposes of these regulations, Farmhouse Cluster developments are considered a minor subdivision, except as provided below, ~~and require Town Board approval~~. Farmhouse Cluster developments do not require a Sketch Plan, except as specifically set out hereinbelow. A Farmhouse Cluster Plan shall demonstrate compliance with requirements of the Zoning Ordinance and include the following: an “Existing Features (Site Analysis) Plan” as detailed in Section 6.300 (1)(1-14), (2), and (3) of this Ordinance; a Four-Step Process as detailed in Section 6.300 (3) of this Ordinance; and a Preliminary Plan as detailed in Section 6.400 of this Ordinance.

Thoroughfare.

Any street (existing or proposed) on the adopted Comprehensive Transportation Plan (CTP) Highway Map. The words thoroughfare and arterial are used synonymously and indicate streets which are designated as freeways, boulevards, other major thoroughfares or minor thoroughfares.

Thoroughfare Plan.

The most recent map adopted by the Metropolitan Planning Organization which indicates the system of roads expected to serve major access and travel needs with regard to auto, truck, and transit transportation. The words thoroughfare plan and arterial street plan are used synonymously.

Through Lot.

A lot other than a corner lot with frontage on more than one street.

Town Board.

The Board of Commissioners of the Town of Huntersville.

Town Manager.

The Town Manager of the Town of Huntersville.

Variance.

An action requesting consideration for relief from the strict enforcement of the standards of the ordinance where special circumstances or unusual considerations may exist on the parcel of land.

2.200 RULES OF CONSTRUCTION

For the purposes of these regulations, the following rules of construction apply.

1. These regulations will be construed to achieve the purposes for which they are adopted.
2. In the event of any conflict in limitations, restrictions, or standards applying to a project, the provision more consistent with the Huntersville Zoning Ordinance shall apply.
3. The words "shall", "must", and "will" are mandatory in nature, implying an obligation or duty to comply with the particular provision.
4. The word "may" is permissive in nature except when used in the negative.
5. References to "days" will always be construed to be working days, as defined in Article 12 of the Zoning Ordinance, unless the context of the language clearly indicates otherwise.

3.000 DECISION MAKING AND ADMINISTRATIVE BODIES

3.100 PLANNING STAFF

In addition to any authority granted to the Planning Director by other ordinances of the Town of Huntersville, the Planning Director, and the employees under his or her direction, or other Designee, may, from time to time, be designated by the Board of Commissioners to administer the Subdivision Ordinance, and will have the following duties in accordance with these regulations.

1. To review all petitions for subdivisions of land, within the authority and jurisdiction of these regulations, and comment on completeness of petitions and conformity to the requirements of these regulations.
2. To review and provide comments on variance petitions.
3. To maintain files and other public records related to the administration and enforcement of these regulations.
4. To comment on proposed amendments to these regulations.
5. To interpret the provisions of these regulations.
6. To coordinate all local, state, and other appropriate agency review and comment on all subdivisions proposed under these regulations.

7. To establish such procedures as necessary and proper for the administration of their responsibilities under these regulations.
8. To approve for recordation in the Mecklenburg County Register of Deeds those divisions of land which, according to the definition of Subdivision found in Section 2.100, are not subject to the requirements of this ordinance.
9. To approve for recordation in the Mecklenburg County Register of Deeds those divisions of land, defined as Limited Subdivisions and Minor Subdivisions in Section 2.100, which meet the standards of the Subdivision Ordinance and Zoning Ordinance, except as otherwise provided in Section 6.550.
10. To approve Major ~~and Minor~~ Subdivision ~~Sketch Plans, Preliminary Plans, and Final Plats, which are identical to, or include only minor revision(s) to, the approved sketch plan. Minor revisions include, but are not limited to, minor shifts in streets to adjoining properties, shift in streets internal to the subdivision, minor shifts in open space location, reduction of lot(s) and/or unit(s) count not inconsistent with the intent of the most detailed plan approved by the Board of Commissioners, and other changes which do not alter the overall layout of the plan. Major revisions include, but are not limited to, the addition of lots, the addition of streets, change(s) to the pattern of street connections, changes to open space provisions, reduction in dedications to the public, or any other feature(s) of the subdivision which assumed significance at the time of sketch plan approval.~~
11. To approve minor revisions to sketch plans, preliminary plans, and final plats; ~~Minor revisions include, but are not limited to, minor shifts in streets to adjoining properties, shift in streets internal to the subdivision, minor shifts in open space location, reduction of lot(s) and/or unit(s) count not inconsistent with the intent of the most detailed plan approved by the Board of Commissioners, and other changes which do not alter the overall layout of the plan.~~
12. To approve subdivision sketch plans that are consistent with or show minor changes to an approved conditional rezoning plan. Minor changes to a conditional rezoning plan shall include, but not be limited to, minor shifts in street and open space location (not less open space), fewer lots and other changes which do not alter the overall layout of the plan or which were significant at the time of the conditional rezoning plan approval.
- 13.11. To approve final plats for recordation in conjunction with an Expedited Subdivision Review.

3.200 PLANNING BOARD

In addition to any authority granted to the Planning Board by other ordinances of the Town of Huntersville, the Planning Board will have the following powers and duties to be carried out in accordance with these regulations.

1. To ~~hear~~ and make advisory recommendations on proposed amendments to the text of these regulations; to propose, as needed, amendments to change the text of these regulations.
2. To ~~review and make recommendation on sketch plans for major subdivisions (unless otherwise provided) and major changes to approved sketch or preliminary plans for major subdivisions in accordance with the regulations set forth by the zoning and subdivision ordinances.~~
23. To ~~hear~~ ~~make advisory recommendations on~~ and comment on requests for variances from the standards of this ordinance in accordance with the provisions of Section 4.000.
34. To ~~hear and~~ make ~~advisory~~ recommendations on appeals from the interpretation of any provisions of this ordinance by the Town Staff or Designated Administrative Agent. The Planning Board may recommend reversal or modification of any action under appeal upon finding an error in the application of these regulations.

Commented [ES4]: Joint public hearing with Town Board

Commented [ES5]: They don't hold quasi-judicial hearings

Commented [ES6]: They don't hold quasi-judicial hearings

In all of these matters, the Planning Board may recommend approval of the request, denial of the request, or approval of the request with modifications conditions relating to the intent and standards of this ordinance.

3.300 TOWN BOARD OR DESIGNATED ADMINISTRATIVE AGENT

In addition to all other authority reserved to the Town Board by other ordinances, the Town Board will have the following powers and responsibilities in accordance with these regulations.

1. To hear and decide proposed amendments to the text of these regulations.
2. To review and decide all applications for approval of Major Subdivision Sketch Plans (unless otherwise provided); major changes to approved sketch plans or preliminary plans for Major Subdivisions, and Farmhouse Clusters as provided in Article 3 of the Zoning Ordinance.
23. To hear and decide requests for variances from the standards of this ordinance in accordance with the provisions of Section 4.000.
34. To hear and decide appeals from the interpretation of any provisions of this ordinance by the Town Staff or Designated Administrative Agent. The Town Board may reverse or modify any action under appeal upon finding an error in the application of these regulations.

In all of these matters, the Town Board may approve the request, deny the request, or approve the request with conditions modifications relating to the intent and standards of this ordinance.

3.400 PLANNING STAFF ADDITIONAL POWERS

The Planning Director and the employees under his or her direction will have the following additional powers and duties to be carried out in accordance with these regulations:

1. To maintain the text of these regulations.
2. To recommend and prepare amendments to the text of these regulations.
3. To accept and file petitions for variances.
4. To accept and file notices of appeals within ten (10) days of the day an administrative interpretation or decision is issued.

4.000 APPEALS AND VARIANCES

4.100 AUTHORITY

The Planning Board may make recommendations on, and the Town Board shall hear and decide petitions for appeals from an interpretation or decision made by Planning Staff or Designated Administrative Agent and petitions for variances from the requirements of these regulations. Any reversal, modification, or affirmation of an interpretation or any variance thus authorized will be entered in writing in a decision of the Town Board with the justification set forth.

4.200 INITIATION

Any person who has standing under N.C.G.S. § 160D-1402(c) or the local government may appeal an administrative decision made pursuant to this ordinance to the board. An appeal is taken by filing a notice of appeal with the Planning Staff. The notice of appeal shall state the grounds for the appeal. A petition for variance may be initiated only by the owner of the affected property, an agent authorized in writing to act on the owner's behalf, or a person having a written contractual interest in the affected property.

4.210 FILING OF NOTICE OF APPEAL

The owner or other party has 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal has 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. A notice of appeal, in the form prescribed by the Planning Director, must be filed with the Planning Staff, accompanied by a

Commented [ES7]: Modifications seems to be the more appropriate word here and below since addressing text amendments, appeals, and variances. As noted below in Section 4, conditions can be added to variances.

Commented [ES8]: There is no designated agent that makes quasi-judicial decisions associated with Subdivision Ordinance

Commented [ES9]: I changed to make recommendations on vs. just recommend as they can recommend to reverse, modify, or affirm vs. just recommend approve.

nonrefundable filing fee as established by the Huntersville Board of Commissioners. The official who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the decision appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

4.220 STANDARDS FOR GRANTING AN APPEAL

The Planning Board may recommend, and the Town Board may decide to [affirm or reverse, wholly or partly, or reverse or](#) modify the decision or interpretation under appeal. [The decision to reverse or modify may be made](#) upon finding an error in the application of these regulations on the part of the administrative official rendering the decision or interpretation.

4.300 FILING OF VARIANCE PETITION

A petition for a variance from the requirements of this ordinance, in the form prescribed by the Planning Director, must be filed with the Planning Staff, accompanied by a nonrefundable filing fee as established by the Town Board.

4.400 STANDARDS FOR GRANTING A VARIANCE

Before granting a variance from the requirements of this ordinance, the Town Board must determine that:

- (1) Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- (2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
- (3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.
- (4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured, and substantial justice is achieved

~~(5) No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.~~

Commented [ES10]: This is not a required variance finding. As such, made it a separate paragraph.

4.500 PLANNING BOARD REVIEW

After receipt of a complete variance petition, the Planning Board will review the petition and send a recommendation and supporting reasons for granting or denying the variance to the Town Board. Recommendation and supporting reasons shall be recorded in the minutes of the Planning Board.

4.600 ACTION BY TOWN BOARD

The Town Board ~~of Adjustment~~ may approve or deny the variance application or approve with conditions relating to the intent and standards of the ordinance. The [Town B](#)oard shall follow all procedures as specified in [N.C.G.S. § 160D-406](#) and [N.C.G.S. § 160D-705](#). The findings of fact used by the [Town B](#)oard to reach its decision shall be recorded in the written decision.

Commented [ES11]: Typo

4.700 REHEARING

When the Town Board has denied any petition for a variance, it will not thereafter accept any other petition for the same variance affecting the same subdivision or any portion thereof, unless it finds that there have been substantial changes in the conditions or circumstances relating to the matter.

4.800 EFFECT OF GRANT OF VARIANCE

After the approval of a variance by the Town Board, the petitioner will be required to follow the procedures for preliminary and final plat approval in order to proceed with development of the subject property. All decisions made by administrative officers under those procedures will comply with the variance to these regulations granted to the petitioner by the Town Board.

5.000 AMENDMENTS

The Planning Staff may from time to time, and at the request of the [Huntersville Ordinances Advisory Board](#), Huntersville Town Board or Planning Board shall, prepare certain amendments to the text of the [Subdivision Ordinance](#) to correct errors, update or modify the requirements, or otherwise modify the operation of the ordinance in regulating the subdivision of land.

Amendments to this ordinance may only be enacted pursuant to public notice and public hearing on the proposed amendments. Notice of such public hearing shall be published once per week for two successive weeks in a newspaper of general circulation in the Town of Huntersville. The notice shall be first published not less than ten (10) days nor more than twenty-five (25) days prior to the date fixed for the hearing. The notice shall indicate the date, time, and place of the hearing and shall include a statement of the substance of the proposed amendment.

All text amendments must be referred to the Planning Board for a recommendation prior to final action by the Town Board. If no written report is received from the Planning Board within 30 days of referral of the amendment to that board, the governing board may act on the amendment without the Planning Board report.

6.000 THE SUBDIVISION PROCESS

6.100 COMPLIANCE REQUIRED

After the effective date of this ordinance, no plat of a subdivision of land subject to the jurisdiction of this ordinance will be filed or recorded by the Mecklenburg County Register of Deeds until it has been submitted to and approved by the Town of Huntersville in accordance with these regulations, and until this approval shall have been entered on the face of the plat in writing by an authorized representative of the local government. This applies to all subdivision activities included in the definition of Subdivision, found in Section 2.100.

6.200 GENERAL [GUIDELINES AND REQUIREMENTS](#)

The following statements provide general ~~requirements and policies~~[guidelines and requirements](#) to be used in the design, ~~review, and approval~~ of any subdivision under the jurisdiction of this ordinance. Questions of interpretation of any of these provisions should be discussed with the Planning Director or Designated Administrative Agent at the earliest possible time in the development of a subdivision proposal. (*See Section 4.000 for appeal process*).

[6.200-A GENERAL GUIDELINES](#)

~~1. Consistency with adopted public plans and policies.~~

~~All subdivision of land approved under these regulations should be consistent with the most recently adopted public plans and policies for the area in which it is located. This includes general policy regarding development objectives for the area as well as specific policy or plans for public facilities such as streets, parks and open space, schools, and other similar facilities. Plans and policies for the community are on file in the offices of the Town of Huntersville.~~

Commented [JS12]: Moved to General Requirements

2. Conformity.

All proposed subdivisions ~~should~~[shall](#) be planned so as to facilitate the most advantageous development of the entire neighboring area. In areas with established and/or approved development, new subdivisions

~~should~~ be planned to protect and enhance the stability, environment, health, and character of neighboring areas. The geometry of streets and intersections and the location of street connections ~~should~~ be assessed to minimize the detrimental effects of high volume, high speed neighborhood through traffic. This assessment will consider the location of large-scale traffic generating uses as well as the adopted thoroughfare plan and other adopted plans. Proposed subdivisions ~~should~~ not endanger the public health and safety of the community, further, orientation of principal structures ~~should~~ avoid backing up to public streets because of lack of privacy and inappropriate relationship to the public realm. Use of single-loaded streets where development is only on one side of the street or providing large expanses of open space where principal structures are visually buffered from the road may be appropriate in circumstances where such structures should not front on the existing public street. ~~The Town Board of Commissioners may allow a deviation to the orientation due to topography issues or existing vegetation visually buffering structures from the public street.~~

3. Access Between Adjoining Properties.

~~To the extent practicable, all streets shall connect to create a comprehensive transportation network, which allows free movement of automobiles, bicyclists, and pedestrians. The purposes and design standards for Town streets, as further described in Article 5 of the Huntersville Zoning Ordinance, shall be met.~~

Commented [ES13]: Moved below

34. Relation to topography.

In sloping terrain, streets ~~should~~ generally parallel the contours of the land insofar as practicable, to avoid steep grades and the concentration of surface storm water runoff. Variations are allowed to meet design objectives for the development and/or to calm vehicular speeds.

45. Mature trees and natural vegetation.

~~Streets and development sites should be designed to protect and preserve, to the greatest extent practicable, stands of mature trees and other areas of significant natural vegetation. Minor adjustment of street alignment on the ground is permitted to achieve this objective, so long as standard drainage requirements continue to be met and the actual location of the street on the ground is reflected on the final plat or an amended final plat.~~

Commented [JS14]: Moved below

6. Access to parks, schools, etc.

~~Streets and sidewalks shall be designed to assure convenient access to parks, greenways, playgrounds, schools, and other places of public assembly. Supplemental walkways not associated with streets may not be less than 10 feet in width and may be required to be large enough to provide vehicular access for maintenance vehicles.~~

Commented [ES15]: Moved below

7. Discourage through traffic.

~~Methods to discourage high volume, high speed through traffic should consider street geometry, intersection design, and other traffic calming measures.~~

Commented [JS16]: Moved below

48. Relationship to railroad rights-of-way.

When a subdivision adjoins a railroad right-of-way, the subdivider may be required to arrange the street pattern to provide for future grade separation of street and railroad crossings.

6.200-B GENERAL REQUIREMENTS:

1. Consistency with adopted public plans and policies.

~~All subdivision of land approved under these regulations must comply with the most recently adopted public plans and policies for the area in which it is located. This includes general policy regarding~~

development objectives for the area as well as specific policy or plans for public facilities such as streets, parks and open space, schools, and other similar facilities. Plans and policies for the community are on file in the offices of the Town of Huntersville.

1. Access to parks, schools, etc.

Streets and sidewalks shall be designed to access to parks, greenways, playgrounds, schools, and other places of public assembly. Supplemental walkways not associated with streets may not be less than 10 feet in width and may be required to be large enough to provide vehicular access for maintenance vehicles.

29. Half Streets.

Whenever an existing half street is adjacent to a tract of land to be subdivided the other half of the street shall be platted within such tract. New half streets are prohibited except when essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations, and where it will be practicable to require the dedication of the other half when the adjoining property is subdivided.

3. Access Between Adjoining Properties.

The purposes and design standards for Town streets, as further described in Article 5 of the Huntersville Zoning Ordinance, shall be met.

10. Parallel streets along thoroughfares.

Where a tract of land to be subdivided adjoins a federal or state highway or a major arterial street, the subdivider may be required to provide a marginal access street parallel to the highway.

441. Reservation and Dedication of Public School and Public Park Sites.

The subdivider shall determine if the tract of land to be subdivided appears in any adopted plan or policy document as a future public school or public park (including public greenways, and/or open spaces) site by contacting the appropriate agency. The subdivider shall provide certification to the Planning Director or Designated Administrative Agent to indicate whether or not the area proposed to be subdivided includes any identified future public school or public park site. If no certification is provided, the Planning Director or Designee shall make the determination by contacting the appropriate agencies. If such site(s) are included in the area to be subdivided, the Planning Director or Designee will notify the appropriate agency of the proposed subdivision and its effect on the future public site. The appropriate agency must decide within 30 days if it wishes to reserve the site for future acquisition. If the site is not to be reserved, then the subdivision will be processed in the normal fashion. If the agency does wish to reserve the site, then the subdivision will not be approved without such reservation. With regards to future school sites, the appropriate agency will have 18 months for future school sites and 12 months for future public park sites from the date of final approval of the subdivision or site plan to acquire the site by purchase, receipt of a dedication, or by initiating condemnation proceedings. If, at the end of the 18-month applicable period, none of the actions listed above have commenced, the subdivider may consider the land free of any reservation. The developer may also offer dedication of any public park that appears in any adopted plan or policy document as a future public park (including public greenways and open spaces).

As an alternate to the above for public park sites, the Town Board may accept payment of funds to be used to acquire or develop recreation areas serving residents of the development or subdivision or more than one subdivision or development within the immediate area. All funds received pursuant to this subsection shall be used only for the acquisition or development of recreation, park, or open space sites. The formula to determine the amount of funds that are to be provided under this subsection shall be based on the value of the development or subdivision for property tax purposes. A combination or partial payment of funds and partial dedication of land may be allowed when the governing board determines that this combination is in the best interests of the citizens of the area to be served.

Commented [JS17]: Changes consistent with Statute 160D-804.

Pursuant to N.C.G.S. § 160D-804(d), the Town, may accept payment of funds to be used to acquire or develop the open space and/or recreation areas which serve residents of more than one subdivision or development within the immediate area. All funds received pursuant to this subsection shall be used only for the acquisition or development of recreation, park, or open space sites. The formula to determine the amount of funds that are to be provided under this subsection shall be 3200 percent of the pre-development property tax value of the subdivision site to be developed. A combination or partial payment of funds and partial dedication of land may be allowed when the Town Board determines that this combination is in the best interests of the citizens of the area to be served.

Commented [ES18]: Acceptance of funds doesn't require Town Board approval, only the acceptance of partial dedication and partial funds.

Commented [ES19]: Concord uses 300% of tax value and Durham uses 200%.

512. Community Service Facilities.

When a tract of land that appears in any adopted plan or policy document as a future site for any community service facility, including but not limited to police and fire stations, libraries, public housing, and other public uses, falls within an area proposed to be subdivided, the Planning Director or Designated Administrative Agent will notify the appropriate agency of the proposed subdivision and its effect on the future community service facility site. The appropriate agency must decide within 30 days if it wishes to reserve the site for future acquisition. If the site is not to be reserved, then the subdivision will be processed in the normal fashion. If the agency does wish to reserve the site, then the subdivision will not be approved without such reservation. The subdivider may choose to dedicate the area to be reserved.

613. Proposed Sstreet Nnames.

Proposed street names shall be coordinated with Mecklenburg County Charlotte-Mecklenburg Planning Commission staff, Town Engineering Department, or other designee.

Commented [ES20]: Per Jack, avoided specific department as department name changes.

714. Easements.

Easements established to the width and in the locations required by the Consulting Engineer, Utility Department, or Town Engineering Department, shallould be provided for open or piped storm drainage, sanitary sewers, water lines, and other utilities. This requirement applies to such lines installed at the time of the development of the subdivision, and to easements for such lines which may reasonably be expected to be installed in the future.

815. Proposed Wwater and Ssewerage Ssystem.

At the sketch plan stage, the subdivision plan shall contain information as to the availability and method of providing potable water and a system of sanitary sewage collection and disposal. The preliminary subdivision plan must be accompanied by satisfactory evidence as to the proposed method of providing potable water and a system of sanitary sewage collection and disposal.

- (a) Where, at the time of preliminary plan approval, these systems are to be a part of the public water and sanitary sewerage system owned and operated by the Charlotte-Mecklenburg Utility Department, the preliminary subdivision plan shall be accompanied by a complete set of construction plans for the proposed systems, prepared by a registered engineer, which shall be required to meet the standards established by said utility owner/operator for connection to the system upon completion and dedication.
- (b) Where, at the time of preliminary plan approval, the proposed systems to serve more than one structure do not contemplate the use of facilities owned and operated by the Charlotte-Mecklenburg Utility Department, the proposed systems must be reviewed and approved by the agency or agencies with jurisdiction over the approval. This shall also include, but not be limited to, review and approval by Charlotte-Mecklenburg Utility Department to establish that construction plans meet public utility standards for adequacy and compatibility with the public system(s) in order to provide for the future orderly development of the town. Whether the proposed system serves one structure or more than one structure the developer must provide evidence prior to preliminary plan approval of the required discharge permit or a perk test for sewage disposal on each lot, whichever is applicable. Where lots are to be served by septic tank

systems, the preliminary plan and the final plat shall clearly label any lots which do not perk and for which a building permit shall not be issued until alternate sewage disposal methods are available to such lots. Prior to final plat approval, evidence must be provided that both the sewage and water system designs have been approved for construction. Prior to the issuance of any certificate of occupancy for any structure, evidence must be provided that both the water and sewer systems have been approved and are operational for the structures in question.

~~Where local standards exceed those of State or Federal agencies and where those standards may be enforced over those of State or Federal agencies, then the Department of Environmental Protection will coordinate all reviews for such standards. However, the approval of the proposed systems remains with the responsible agency or agencies, which may include the Department of Environmental Protection.~~

916. Restrictions on the subdivision of land subject to flooding.

Lots that are subject to flooding ~~should not be established in subdivisions except as provided in shall comply with the provisions of~~ Section 7.280.

17. Reserved.

~~Neighborhood Parks: Dedication of Land or Fees in Lieu of Dedication of Land.~~

1048. Open Space

Open space, where required, shall be consistent with the standards established in Article 7 of the Huntersville Zoning Ordinance.

,11. Mature Trees and Vegetation

~~The purposes and development standards for landscaping, as further defined in Article 7 of the Zoning Ordinance, shall be met.~~

12. Through Traffic

~~Methods to prevent high-volume, high-speed traffic shall be employed using street geometry, intersection design, and other traffic calming measures.~~

139. Impact of Development on Public Facilities

When reviewing ~~certain~~ subdivisions, the town shall consider the impacts the proposed development will have on public facilities, ~~including traffic network infrastructure~~, in light of the requirements of Section 6.300(13) and Article 14 of the Town Zoning Ordinance, as applicable. The developer shall demonstrate the proposed subdivision ~~is in compliance with the Intersection Capacity Utilization Percentage Standards as set forth in does not Article 14.4 of the Zoning Ordinance adversely affect the health, safety, and welfare of the community~~, and where applicable, the developer may provide mitigation measures to ~~satisfy the requirements of Article 14 of the Zoning Ordinance minimize adverse impacts~~. Examples of mitigation measures include altering development layout and plans, providing improvements at nearby intersections to address impacts of that development (not existing deficiencies), and providing street connections to adjoining property for safe and efficient movement of traffic, as further provided in Section 6.300(13) and 14 of the Zoning Ordinance.

6.300 SKETCH PLAN REQUIRED FOR MAJOR SUBDIVISIONS

1. Prior to the filing of an application for approval of a major subdivision Preliminary Plan, a Sketch Plan shall be submitted to the Planning Director and any Designated Administrative Agent for review. When submitted, this **Sketch Plan shall be on a topographical map showing original contours at intervals of not less than four feet highlighting slopes over 25% and existing tree lines.** It should show in sketch form the proposed layout of streets, lots, and other features in relation to existing conditions. It should include the following information:

1. The boundary lines of the property being subdivided;
2. Water courses on the land to be subdivided;
3. The location, names, and rights-of-way of any existing streets on or within 300 feet of the land to be subdivided;
4. The location of all property lines which intersect the boundaries of the property being subdivided; the zoning district of each adjacent property;
5. Rough finished grades, the location of proposed streets, lots, parks or other open spaces, reservations, building lines, street cross-sections, number and type of buildings, and the location of any building restriction flood lines required by Section 7.280;
6. Zoning information for the proposed project site;
7. Proposed front, rear, and side yard dimensions for each building type along each street type;
8. For projects within a regulated watershed protection area, the location of required buffers and high-density option detention, if applicable;
9. The location of general buffers or screens required for the project area, as a whole;
10. The scale of the plan, which shall not be smaller than 100 feet to the inch; north point; date;
11. A small-scale vicinity map.
12. Information necessary to evaluate the proposed development site for compliance with the water quality standards of Section 8.17 of the Huntersville Zoning Ordinance and the Performance Criteria as detailed in Section 9 of the Huntersville Water Quality Design Manual. Further, the Site Evaluation Tool (SET) output shall be submitted for each proposed development site. Section 9 of the Huntersville Water Quality Design Manual contains detailed information concerning the submission requirements for SET.
13. Traffic Impact Assessments; Physical Analysis.
 - (a) a Traffic Impact Assessment for certain subdivisions, as required by Article 14 of the Town Zoning Ordinance, which is hereby incorporated by this reference.
 - (b) For developments of twenty (20) or more residential units or equivalent traffic generation a physical analysis (type of units expected, including number of bedrooms, projected values, size, and timing of phases, etc.).
14. An "Existing Features (Site Analysis) Plan" shall be submitted as part of the sketch plan application and for Farmhouse Cluster developments in order to determine significant features to be preserved. It is recommended a pre-application meeting with the administrator be held to review the Existing Features Plan prior to submission of the sketch plan. The Existing Features (Site Analysis) Plan analyzes each site's special features, as they form the basis of the design process for open space lands, building locations, street alignments, and lot lines. Detailed requirements for Existing Features Plans at the minimum must include:
 - (a) The location and area calculations of constraining features including wetlands, slopes over 25%, watercourses, intermittent streams and floodways, S.W.I.M. buffers (outside of floodways), watershed buffers, and all rights-of-way and easements (current and future);
 - (b) The location of significant features such as woodlands, tree lines, specimen and heritage trees, open fields or meadows, scenic views into or out of the property, watershed divides and drainage ways; existing structures, cemeteries, roads, tracks and trails; significant wildlife habitat; prime agricultural farmland; historic, archeological and cultural features listed (or eligible to be listed) on national, state or county registers or inventories; and aquifers and their recharge areas;

- (c) The location of existing or planned utility easements (above and below ground) to include, but not limited to power/transmission, water, sewer, gas, phone, and cable;
 - (d) A topographical map showing original contours at intervals of not less than four feet and existing tree lines;
- 2. The Existing Features (Site Analysis) Plan shall identify areas to be preserved as described in Section 7.12 of the Huntersville Zoning Ordinance. These areas comprise the development's proposed open space, the location of which shall be consistent with the locational design criteria listed in Section 7.12 of the Huntersville Zoning Ordinance. The Existing Features (Site Analysis) Plan shall form the basis for the conceptual Sketch Plan, which shall show the tentative location of buildings, streets, lot lines and greenway lands in new subdivisions, according to the four-step design process described below.
- 3. Four-Step Process: **Within the Rural and Transitional zoning district**, each Sketch Plan shall follow a four-step design process as described below. When the conceptual Sketch Plan is submitted, applicants shall be prepared to demonstrate to the town that these four design steps were followed by their site designers in determining the layout of their proposed streets, house lots, and open space.
 - (a) Designating the Open Space: During the first step all potential preservation areas are identified, using the Existing Features (Site Analysis) Plan. Areas to be designated should consist of wetlands, floodways, flood fringe, and significant trees as well as sensitive and noteworthy natural, scenic, and cultural resources on the property.
 - (b) Location of House Sites: During the second step, potential house sites are tentatively located. Because the proposed location of houses within each lot represents a significant decision with potential impacts on the ability of the development to meet the evaluation criteria contained in Section 7.13 of the Huntersville Zoning Ordinance, subdivision applicants shall identify tentative house sites on the conceptual Sketch Plan.
 - (c) Street and Lot Layout: The third step consists of aligning proposed streets to provide vehicular access to each house in the most reasonable and economical way. When lots and access streets are laid out, they shall be located in a way that avoids or at least minimizes adverse impacts on both the Primary and Secondary Conservation Areas. To the greatest extent practicable, wetland crossings shall be strongly discouraged.
 - (d) Lot Lines: The fourth step is simply to draw in the lot lines where applicable.

6.310 SKETCH PLAN NOT REQUIRED FOR MINOR SUBDIVISIONS

A sketch plan shall not be required for a Multi-Building Site or a Minor Subdivision, except for Section 6.300(1)(14) and Section 6.300(3), which are required for Farmhouse Cluster developments.

6.315 SKETCH PLAN NOT REQUIRED FOR CONSERVATION SUBDIVISIONS

To offer property owners an incentive to maintain land in the Open Space zoning district in a largely undeveloped and rural condition, conservation subdivisions as defined in the Huntersville Zoning and Subdivision Ordinances are eligible for a streamlined approval process. Compliance with the requirements below, and with Section 3.2.1(f) of the zoning ordinance, shall entitle the subdivider to choose to divide the property by deed, as a metes and bounds subdivision, or by final plat according to the requirements of subdivision ordinance Section 6.600.

- 1. Documents prepared by the property owner in association with an authorized conservation organization that have resulted in the grant of an irrevocable conservation easement will be accepted in lieu of the sketch plan requirements of the preceding Sections 6.300 and 6.310.

2. The submitted documents must show that the following conditions have been met:
 - (a) An irrevocable conservation easement held by a conservation organization has been recorded on the tract(s) to be subdivided; documentation of the easement includes a boundary description of the area subject to the conservation easement.
 - (b) Limits on location and extent of land disturbance and building construction have been set out in the conservation easement(s), which at a minimum preserve the rural appearance of the land when viewed from public roads and from abutting properties.
 - (c) Treatment of floodplain(s) and required water quality buffers, as described in the conservation easement(s), conform to the minimum standards of the Huntersville Zoning and Subdivision ordinances.
 - (d) The proposed subdivision conforms to the minimum project size of 40 acres and the maximum gross density of one dwelling unit per 20 acres.
 - (e) All parcels within the conservation subdivision have been provided with permanent access by way of public road frontage or a permanent 20-foot wide access easement that connects to a public right-of-way. Landlocked parcel(s) are not created.
 - (f) Where the parent tract(s) abuts or includes a segment of a thoroughfare that is shown on the adopted thoroughfare plan and for which an engineered alignment has been selected, any right of way reservation required by the subdivision regulations has been made, either by the filing of a deed or the filing of a plat map.

6.316 SKETCH PLAN NOT REQUIRED FOR EXPEDITED SUBDIVISION REVIEW

A sketch plan shall not be required for divisions of land qualifying for Expedited Subdivision Review.

6.320 REVIEW OF MAJOR SUBDIVISION SKETCH PLAN

- ~~1. 4.—~~ Upon submission, the Planning Director and any Designated Administrative Agent shall have fifteen (15) working days to review and comment on the Sketch Plan. Upon completion of review, Planning Staff shall provide comments to the subdivider on any portions of the Sketch Plan that are not in compliance with the Town's Sketch Plan submission requirements or the Town's Zoning and Subdivision Ordinances. A technically deficient sketch plan shall be returned to the subdivider with comments once final adjustments are made by the applicant to address staff comments and minimum submission requirements are met, the sketch plan, shall be forwarded by the staff to the Planning Board to place on the Planning Board's agenda for their next scheduled meeting. Mailed notice about the request shall be sent to all owners of property within 250 feet of proposed subdivision prior to the Planning Board meeting. Prior to the Planning Board meeting,
- ~~2. The subdivider shall~~ must address all Planning Town Staff comments prior to refileing a revised Sketch Plan with the Planning Department file with the Planning Department. If subsequent corrections or changes to a sketch plan are necessary, the reviewer shall have fifteen (15) working days to review any revised sketch plan.
- ~~1-3. Aa~~ written report of at least one community meeting held by the subdivider must be submitted within forty-five (45) days of the initial filing of the sketch plan for review by the Planning Department. The community meeting shall not be held on regularly scheduled Town Board and Planning Board meeting nights. Notice of such a meeting shall be given to all of the following using the parcel ownership information listed in the current Mecklenburg County tax records:
 - a. Owner of each property petitioned for subdivision
 - b. Owner of each abutting property
 - c. Owner of each property within 250 feet of the petitioned property
 - d. Owner of each property directly across a street, easement, or right-of-way, public or private, from the petitioned property

- e. Owner of each property across a street, easement, or right-of-way, and within 250 feet of the right-of-way boundary opposite the petitioned property
- f. Contact person for each neighborhood association, property owner association, and homeowner association registered with the Town Planning Department that has jurisdiction over property within 2000 feet of any portion of the subdivision site (distance scaled on a Town of Huntersville or Mecklenburg County official map).
- g. The report shall include, among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact, the date, time, and location of the meeting, a roster of the persons in attendance at the meeting, a copy of any materials presented at the meeting, a summary of issues discussed at the meeting, including changes suggested by the participants and a description of any changes to the subdivision petition made by the petitioner as a result of the meeting. In the event the subdivider has not held at least one meeting pursuant to this paragraph, the subdivider shall file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held. The adequacy of a meeting held or report filed pursuant to this paragraph shall be considered, ~~by the Town Board~~ but shall not be subject to judicial review.

~~If, however, a sketch plan shows only minor revisions (see 3.100.11) to a sketch plan or is consistent with or shows minor changes to a conditional zoning district plan(s) approved by the Huntersville Board of Commissioners and remaining in effect on all of the property subject to the sketch plan submittal, then the Planning Director or staff under his direction is authorized to approve the sketch plan, approve with conditions, or deny the plan. Administrative decisions to deny approval of a sketch plan may be appealed to the Huntersville Board of Commissioners.~~

~~4. 2.—Within 30 days of receiving the final Sketch Plan and community meeting report, Town staff the Planning Director or Designated Administrative Agent shall prepare a written decision report setting forth the proposed findings concerning the application's compliance with applicable regulations. If the staff decision report proposes a finding or conclusion that the application fails to comply with applicable regulations, it shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions. Notice of the decision to approve or deny a sketch plan shall be provided in accordance with N.C.G.S. § 160D-403. Administrative decisions to deny approval of a sketch plan may be appealed in accordance with Section 4.000.~~

~~3.—Sketch Plan documents shall be submitted in accordance with published review schedules in order to be placed on the applicable Planning Board or Town Board agenda~~

~~4.—The Planning Board shall have forty-five (45) consecutive days from their first meeting to review and make a recommendation to the Town Board on the Sketch Plan. However, the developer may request one additional regular Planning Board meeting to address any issues raised, subject to approval by the Planning Board. The Planning Board shall report to the Board of Commissioners whether it concurs in whole or in part with the staff's proposed findings, and to the extent there are differences the Planning Board shall propose its own recommendations and the reasons therefore. In response to the Planning Board's recommendations, the applicant may modify his application prior to submission to the Town Board, and the staff may likewise revise its recommendations.~~

~~5.—A Sketch Plan subdivision hearing will be conducted as a quasi-judicial hearing before the Town Board. The applicant has the burden of producing competent, material, and substantial evidence establishing that the proposed subdivision will comply with all of the applicable standards which apply. The burden of producing competent, material, and substantial evidence establishing the proposed subdivision should be denied for any of the reasons set forth in these regulations rests on the party or parties urging that the requested Sketch Plan should be denied. In considering whether to approve an application for a subdivision Sketch Plan, the Town Board shall proceed according to the following format:~~

- ~~(a) the Board shall consider whether the application is complete. If no member moves that the application be found incomplete (specifying either the particular type of information lacking or the particular requirement with respect to which the application is incomplete) then this shall be taken as an affirmative finding by the Board that the application is complete;~~

- (b) ~~the Board shall consider whether the application complies with all of the applicable requirements. Separate votes may be taken with respect to each requirement not met by the application. If the Town Board concludes that all applicable requirements are met, it shall approve the Sketch Plan. If the Board concludes that the application fails to comply with one (1) or more of the applicable requirements, it shall adopt a motion to deny the application for one (1) or more of the reasons set forth within this ordinance. Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.~~

6.400 PRELIMINARY PLAN REQUIREMENTS

The preliminary subdivision plan must be drawn to the following specifications and must contain or be accompanied by the information listed below. No processing or review of a preliminary plan will proceed without all of the information listed. ~~Detailed standards and specifications for~~ Construction of state standard roads shall be in accordance with NCDOT regulations, are contained in the Mecklenburg County Land Development Standards Manual available from the Mecklenburg County Land Use and Environmental Services Agency. For Town streets, the standards of Article 5 of the Huntersville Zoning Ordinance and Engineering Standards and Procedures Manual shall control.

1. ~~1-~~ The boundary of the area to be subdivided and the location within the area, or contiguous to it, of any existing streets, railroad line, water courses, easements, or other significant features of the tract.
2. ~~2-~~ The location, size, elevations of existing sanitary sewers, storm drains, and culverts within the tract and immediately adjacent thereto.
3. ~~3-~~ Original contours, including tree lines, shown at intervals of not less than 4 feet for the entire area to be subdivided and extended into adjoining property for a distance of 300 feet at all points where street rights-of-way connect to the adjoining property. These contours shall be referenced to mean sea level datum established by the U.S. Coast and Geodetic survey. Proposed contours for the full width of all street rights-of-way, along open drainage channels and in all other portions of the subdivision where extensive grading is proposed must be shown. These requirements shall not apply where the size of the subdivision and the topography make such information unnecessary.
4. ~~4-~~ The location of proposed streets, alleys, easements, lots, parks or other open spaces, reservations, other property lines, front build-to lines and rear and side yard dimensions for each lot, street dimensions, tentative building locations, and the location of any building restriction flood lines required by Section 7.280. The location and area calculations of constraining features including wetlands, slopes over 25%, watercourses, intermittent streams and floodways, S.W.I.M. buffers (outside of floodways), watershed buffers, and all rights-of-way and easements (current and future)
5. ~~5-~~ The location of all proposed storm drains and appurtenances with grades, inverts, and sizes indicated, together with a map of the drainage area or areas tributary to the proposed storm drains, a copy of the data used in determining the sizes of drainage pipes and structures, and the Building Restriction Floodline and Flood Protection Elevation for each lot subject to flooding as defined in Section 7.280.
6. ~~6-~~ The name of the subdivision; the name and signature of the owner or the owner's duly authorized agent; the name of the surveyor, engineer or designer; the names of proposed streets; the names of adjoining subdivisions or property owners. The name assigned to the subdivision and the names assigned to streets at this time will be used throughout the review and approval process for preliminary and final plats and may not be changed without approval of the Planning Director and or Designated Administrative Agent.
7. ~~7-~~ The scale of the plan which shall not be smaller than 100 feet to the inch, north point, date.
8. ~~8-~~ Typical cross sections of internal or abutting streets showing width, sidewalk, and planting details and proposed construction of roadways.

- ~~9.~~ 9. Proposed profiles of roadways. Where a proposed street is an extension of an existing street the profile shall be extended to include 300 feet of the existing roadway and storm drains if present and a cross section of the existing street shall be shown. Where a proposed street within the subdivision abuts a tract of land that adjoins the subdivision and where said street may be expected to extend into said adjoining tract of land, the profile shall be extended to include 300 feet of the said adjoining tract.
- ~~10.~~ 10. The proposed method of water supply and sewer disposal.
- ~~11.~~ 11. A small-scale vicinity map showing the location of the subdivision with respect to adjacent streets and properties.
- ~~12.~~ 12. The location of any existing LCID landfills on the site and the location of any proposed LCID landfills on the site.
- ~~13.~~ 13. A timetable for estimated project completion of the area covered by the preliminary plan.
- ~~14.~~ 14. The zoning district(s) in which the project is located.
- ~~15.~~ 15. For projects in the Mountain Island Lake Watershed Overlay District, the calculated built-upon area permitted for each building lot, taking into account permanently preserved open space.
- ~~16.~~ 16. For subdivisions within which open space is required, a draft of the documents by which irrevocable preservation of open space shall be assured.
- ~~17.~~ 17. A Landscape/Preservation Plan is required for all subdivisions. Items to be included on the plan are as follows:
- (a) Project Name
 - (b) Owner Name
 - (c) Landscape Architect's seal and signature
 - (d) Tree save calculations
 - (e) Tree save areas – must also be shown on all sheets to be included within the Preliminary Plan
 - (f) Street Trees Proposed
 - (g) Additional trees to be planted to meet minimum tree save requirements and appropriate table (if any)
 - (h) Individual residential lot trees and a table showing total amount by lot type
 - (i) Internal/Perimeter landscaping for parking lots
 - (j) Landscape easements properly labeled – must also be shown on the site plan and final plat
 - (k) Notes on plan related to maintenance of street trees by individual homeowner or homeowners association – must also be noted on all preliminary plans and final plats to be recorded and documented within the homeowner's covenants and restrictions.
 - (l) Proposed utilities in relation to tree save areas.
- ~~18.~~ 18. Storm Water Permit Application. A Storm Water Permit Application shall be submitted along with preliminary plans for each proposed development. The permit application shall demonstrate compliance with [Section 8.17.6](#), Performance Criteria of the Huntersville Zoning Ordinance, unless otherwise exempted. The storm water permit application shall contain computations, drawings, soil analyses, calculations for each BMP, and overall site hydrology calculations as well as other information sufficient to describe the manner, location, and type of measures for managing storm water from the development in compliance with [Section 8.17.6](#). In addition, the

permit application shall specify those parties responsible for long-term maintenance of all BMPs. The Town Staff of Huntersville shall review the permit application to determine compliance with the approved Performance Criteria. Approval of the storm water permit application by the Town of Huntersville is required prior to the initiation of land disturbing activities and said storm water permit application shall serve as the basis for all subsequent construction.

6.500 PROCEDURES FOR APPROVAL

6.510 PRELIMINARY PLAN: SUBMISSION AND APPROVAL

A preliminary plan of the proposed subdivision developed in accordance with the specifications set forth in Section 6.400 must be submitted to the Planning Director or Designated Administrative Agent. The plan must be accompanied by an application in duplicate signed by the owner or his duly authorized agent on application forms to be furnished by the Planning Director or Designated Administrative Agent. At the time of submission, the applicant will be advised as to the number of copies of the plan and related data required in Section 6.400. Application for preliminary plan approval shall be accompanied by the appropriate development review fee(s) as established by ordinance.

The Planning Director or Designee shall have twenty (20) working days to review and comment on the initial preliminary plan. If subsequent corrections or changes to the initial preliminary plan are necessary, the reviewer shall have fifteen (15) working days to review any revised plan. The preliminary plan time limits listed above do not apply to plans for which no sketch plan has been submitted, nor to plans which contain any proposed school, park, greenway, or other public facility for which reservation is required. The applicant may consent to an extension of any of the time limits. Upon determination by the Planning Director or Designee and Town Engineering Department, or such other engineering agent designated by the Town Board to review Subdivision Plans, that the preliminary plan is complete, correct, and in compliance with Section 6.200 as submitted, or has been resubmitted and found complete and correct, the plan is eligible for approval.

~~If the preliminary plan shows only minor revisions (see 3.100.11) to the approved sketch plan, the Planning Director or staff under his direction is authorized to approve the plan, approve with conditions, or deny the plan. The Planning Director or Designated Administrative Agent shall prepare a written decision setting forth findings concerning the plan's compliance with applicable regulations. Notice of the decision to approve or deny a preliminary plan shall be provided in accordance with N.C.G.S. § 160D-403.~~

~~Administrative decisions to deny approval of a preliminary plan may be appealed to the Town Board in accordance with Section 4.000.~~

~~If the preliminary plan includes major revisions (see 3.100.10) to the approved sketch plan, or if a sketch plan has not been submitted and approved by the Town Board, the Planning Director will schedule consideration of the preliminary plan before the Planning Board within 30 working days. Upon receipt of the Planning Board's recommendation, the Planning Director will, within 30 working days, place the preliminary plan and the Planning Board's recommendation for approval, denial, or approval with conditions on the agenda of the Town Board. The time limits do not apply to plans for which no sketch plan has been submitted to the Planning Director, nor to plans which contain any proposed street, school, park, greenway, or other public facility for which reservation may be required. The applicant may consent to an extension of any of the above time limits. Should the Planning Director or Designated Administrative Agent fail to respond within the time limits set out above, the application will be considered recommended for denial.~~

~~The Town of Huntersville reserves the right to approve, disapprove in whole or in part, or condition its approval of the whole or any of its parts upon such requirements of this ordinance as may be necessary for the health, safety and general welfare, and to achieve compliance with Section 6.200. If a preliminary plan is disapproved, the Planning Director will furnish a written notice of the denial and the reasons for the denial upon request of the applicant. An administrative disapproval may be appealed to the Planning Board and Town Board in accordance with the provisions of Section 4.000.~~

6.520 EXCEPTIONS: WHEN PRELIMINARY PLAN NOT REQUIRED

The required preliminary plan may be waived by the Planning Director or Designee for subdivisions defined as Minor Subdivisions or divisions of land qualifying for Expedited Subdivision Review in Section 2.100 of these regulations provided:

1. A plat of the tract being subdivided, accompanied by two (2) applications signed by the owner or his duly authorized agent has been filed with the Planning Director or Designee, and the required fee submitted; and
2. The subdivider, has provided topographic information to determine flood elevations whenever the property proposed to be subdivided, or re-subdivided, is traversed by or adjacent to a known watercourse.

The required preliminary plan may also be waived by the Planning Director for those subdivisions, including Limited Subdivisions, which do not involve the dedication of a new street or site designated for a future public facility.

However, a final plat must be prepared and recorded as provided in Section 6.600.

6.530 EFFECT OF APPROVAL OF PRELIMINARY PLAN

An approved preliminary plan will be valid for a period of two (2) years from the date of approval. If no work in furtherance of the plan except grading on the site has commenced within the two-year period, the preliminary plan approval will become null and void and a new application will be required to develop the site. If work on the site in furtherance of the plan has commenced, and such work involves any utility installations or street improvements except grading, the plan will remain valid and in force.

6.540 RELEASE OF GRADING PERMIT

Preliminary Plan approval is required for the issuance of a grading permit for any grading work on the site for the installation of any improvements in furtherance of the development. Once the preliminary plan is approved, further approvals under this provision are not required for grading permits for individual sites within the development, so long as grading conforms to the approved Preliminary Plan.

6.550 FINAL PLAT: SUBMISSION AND APPROVAL

Upon approval of the preliminary subdivision plan, the subdivider may proceed to comply with the other requirements of this ordinance, and the preparation of the final subdivision plat. The final plat may include all or only a portion of the subdivision as proposed and approved on the preliminary subdivision plan, provided that all required improvements to any existing or new streets shown on the preliminary plan within the boundaries of the final plat have been provided for or been assured by the posting of a surety as provided for in Section 8.400.3 prior to any final plat approval.

For Limited Subdivisions the owner shall be required to plat only the parcel to be transferred or leased and only that parcel shall be subject to the requirements of this ordinance.

Commented [ES21]: Moved up from below for better flow.

The final ~~subdivision~~ plat must be developed in accordance with the specifications set forth in Section 6.600. The official plat or plats, together with copies thereof sufficient for distribution, shall be presented for approval to the Planning Director or Designated Administrative Agent for review. The plat shall be accompanied by an application for final plat approval, submitted in duplicate and signed by the owner and/or his duly authorized agent. The reviewer shall have fifteen (15) working days to review and comment on the final plat.

The subdivider must address all Planning Staff comments prior to resubmitting a revised final plat for approval. If the final plat for a major subdivision shows only minor revisions (see 3.100.11) to the approved preliminary plan and/or sketch plan, the Planning Director or staff under his direction is authorized to approve the plat.

If the final plat for a major subdivision includes major revisions (see 3.100.10) to the approved preliminary plan and/or sketch plan, the staff's comments along with final plat copies will be forwarded to the staff to the Huntersville Planning Board for Planning Board review at their next scheduled meeting date. The staff to the Planning Board must receive the final plat and staff comments at least fourteen (14) days before the next regularly scheduled meeting of the Planning Board in order to place the final plat on their agenda. If subsequent corrections or changes to the initiala revised final plat are necessary, the reviewer shall have fifteen (15) working days to review any revised final plat.

~~The Planning Board-Director or Designated Administrative Agent shall recommend approval or, disapproval, or approval with conditions of the final said plat. The final plat and Planning Board recommendation shall within 30 working days be presented to the Town Board, which shall approve, disapprove, or approve with conditions. The Town Board shall approve the final plat if all requirements of this ordinance, including Section 6.200, have been met. The Planning Director or the Planning Director's Designee shall prepare a written decision setting forth findings concerning the plat's compliance with applicable regulations. Notice of the decision to approve or deny a final plat shall be provided in accordance with N.C.G.S. § 160D-403. Administrative decisions to deny approval of a final plat may be appealed in accordance with Section 4.000.~~

~~The Planning Director or staff under his direction is authorized to approve final plats of minor subdivisions and limited subdivisions which meet all the requirements of this ordinance, including Section 6.200. If the Planning Director determines that the final plat fails to meet any of the requirements of Section 6.200, or that the manner in which the tract is proposed for subdivision significantly affects the implementation of adopted public plans or policies, the Planning Director shall present the final plat to the Planning Board for recommendation and to the Town Board for approval, approval with conditions, or disapproval, in the manner provided in this section. For Limited Subdivisions the owner shall be required to plat only the parcel to be transferred or leased and only that parcel shall be subject to the requirements of this ordinance. If a final plat is disapproved, the Planning Director will furnish a written notice of the denial and the reasons for the denial upon request of the applicant. An administrative disapproval may be taken to the Planning Board and Town Board in accordance with the provisions of Section 4.000.~~

Upon approval, the final plat will be noted approved and made available to applicant for recordation in the Office of the Register of Deeds for Mecklenburg County, North Carolina, which such Register of Deeds is authorized to accept the plat for recordation.

6.600 FINAL PLAT REQUIREMENTS

The final plat will be prepared by a registered surveyor and must be drawn to scale not smaller than 100 feet equal 1 inch, and must contain the following information:

1. The exact boundary of the tract of land being subdivided, ~~showing clearly~~clearly showing the disposition of all portions of the tract.
2. The lines and names of all streets, alley lines, lot lines, lot and block numbers, front build-to line and side and rear yard dimensions for each lot, easements, reservations, and areas dedicated to public purposes with notes stating their purposes. In addition, on-site LCID landfills must be shown on the final plat and on deed(s) for affected lot(s). Also, the plat for all lots subject to flooding shall include a statement as follows: "This lot is subject to flooding during heavy rainfall and the construction of buildings or structures below the flood protection elevation of _____ is prohibited", as further described by Section 7.200 of this ordinance. Plats for multiple lots may include the flood protection elevations in tabular form.

In areas where the floodway regulations are applicable, the following statement shall be inscribed on the plat:

"Any construction or use within the areas delineated by floodway fringe district boundary line and floodway district encroachment line is subject to the restrictions imposed by Floodway Regulations."

For subdivisions within which open space is required, a designation on the plat denoting the area of preservation and the limitations on its use and a reference to the recorded documents by which irrevocable preservation of open space shall be assured. A copy of such documents shall also be provided to the Planning Department.

Any amendment to a previously approved final plat must note in writing on the amended plat the nature and extent of the changes and the deed or plat book and page number where previously recorded.

- ~~3.~~ 3. Sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line, building line, easements required

hereunder or of record in Mecklenburg County or ascertainable by physical inspection of the property, and boundary lines of reserved or dedicated areas. All linear dimensions shall be in feet and hundredths thereof. The maximum allowable error of linear closure shall not be in excess of 1: 10,000. In closed traverses the sum of the measured angles shall vary with the theoretical sum by a difference not greater than an average of 7.5 seconds per angle, or the sum of the total shall not differ from the theoretical sum by more than 90 seconds, whichever is smaller.

4. ~~4.~~ Sufficient data to determine readily and reproduce accurately on the ground the location and extent of rural and/or urban open space to be preserved, the method of preservation, and any limits on use. In addition, the subdivider shall provide to the ~~Huntersville~~ Planning Staff a copy of any covenants and restrictions governing disposition and use of preserved open space.
5. ~~5.~~ "As built" drawings and plans of all water system, sewer system, and storm drainage system facilities. Such plans should show all easements and rights-of-way to demonstrate that the facilities are properly placed. These drawings need not be placed on the final plat but must be submitted at the time of request for final plat approval or release of any surety for required improvements, whichever comes later.
6. ~~6.~~ "As built" cross-sections of each town street type used in the development. Such cross-sections should show improvements in the public rights-of-way and in any easement associated with the detail of the street. Features to be shown will usually include: travel lanes, parking lanes (if any), curb and gutter (or ditch), planting strip, sidewalk, utility allocation. These drawings need not be placed on the final plat, but must be submitted at the time of request for final plat approval or release of any surety for required improvements, whichever comes later.
7. ~~7.~~ For projects in the Mountain Island Lake or Lake Norman Watershed Overlay Districts, the calculated built-upon area permitted for each building lot, taking into account permanently preserved open space.
8. ~~8.~~ The name of the township in which the subdivision is located, the name of the subdivision, the zoning district, the name of the owner, the name, registration number and seal of the registered surveyor under whose supervision the plat was prepared, the date of the plat and north point, with indication of whether the north point is true, magnetic, or grid, and a small vicinity map showing the location of the subdivision with respect to adjacent streets and properties.
9. ~~9.~~ Control corners and permanent markers with adequate and sufficient description to enable a surveyor to locate such control corners or markers shall be shown on the plat. One or more corners shall be designated as control corners, and shall establish two or more street center lines or offset lines within or on the street right-of-way lines to be permanently monumented at intersecting center line or offset lines, points of curvature or such other control points, which monuments shall also be designated as control corners. In addition to the above, control corners must be established along the rear property lines of lots with a minimum of two (2) per block located along a common line. Coordinates must be computed from North Carolina Plane Rectangular Coordinate System and the City of Charlotte Primary Control System monuments, as extended therefrom, provided such a control monument is within two thousand (2,000) feet of the subdivision. Design and material of the concrete monument must be in accordance with the standard detail contained in the Mecklenburg County Land Development Standards Manual. The corners of all lots and parcels must be marked with iron pins driven flush with the ground. The iron pins must be placed where lot boundaries intersect railroad and public street rights-of-way.
10. ~~10.~~ The following signed certificates (lettered or stamped) shall appear on each copy of the final plat submitted by the subdivider:
 - (a) Certificate of Ownership and Dedication:

I hereby certify that I am the owner of the property shown and described hereon and that I hereby adopt this plan of subdivision with my free consent, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I dedicate all sewer lines and all water lines to the Charlotte-Mecklenburg Utility Department, if applicable.

Date Owner(s)

Final written approval by the Planning Director or staff under his direction must be entered on the plat for recording. Changes or amendments to an approved final plat which already bears the written approval prior to recording the plat constitutes a violation of this ordinance. A copy of the sealed and recorded final plat must be delivered to the [Huntersville](#) Planning Department within 5 days of recording.

11. ~~11.~~ The exact boundary of all water quality best management practices shall be shown on final plats prepared by a registered surveyor. Final plats shall contain the following statement: “~~“~~This lot contains a water quality feature that must be maintained in accordance with the recorded Maintenance Covenant as specified in Section 8.17.21(a) of the Huntersville Zoning Ordinance.”

6.700 PLATS ALREADY ESTABLISHED BY SURVEY AND RECORD

Plats already established by survey and recorded in the Mecklenburg County Register of Deeds prior to the effective date of this ordinance will be eligible for development and other administrative permits without complying with the requirements of this ordinance, but must be developed in accordance with the provisions of the subdivision ordinance in effect at the time of the approval.

A subdivision for which a preliminary plan has been approved but for which a final plat has not been recorded in the Mecklenburg County Register of Deeds prior to November 1, 1989 shall be approved for recording without complying with the requirements of this ordinance if final plats conform to the requirements of the subdivision ordinance in effect at the time of preliminary plan approval. Such subdivision will be inspected and must be developed in accordance with the provisions of the subdivision ordinance in effect at the time of preliminary plan approval.

6.800 MULTI-BUILDING SITES

The ~~following~~ requirements [set forth in Sections 6.810 to 6.840](#) will apply for the preparation, submission, and approval of preliminary site plans for both residential and non-residential developments with more than one principal building on a single lot.

6.810 PRE-APPLICATION CONFERENCE DAYS

A ~~pre-application~~[preliminary site plan](#) conference will be arranged by the developer with both the Planning Staff and any other Designated Administrative Agent prior to the submission of a preliminary site plan for a multi-building site.

6.820 PRELIMINARY PLAN REQUIREMENTS

A developer must submit to the Planning Director or Designee a preliminary [multi-building](#) site plan and supplemental documents for review and approval. The preliminary site plan must be prepared in accordance with the requirements of Section 6.400 and must include the following additional information:

1. ~~1.~~ The use, approximate height, bulk, and location of all buildings and structures.
2. ~~2.~~ All proposed land uses and, for residential development, the densities of dwelling units.

3. ~~3-~~In the case of plans which call for development over a period of years, a schedule showing the time within which application for final approval of all parts of the development are intended to be filed.
4. ~~4-~~The proposed location, use, improvements, ownership, and manner of maintenance of common open space areas.
5. ~~5-~~Final drafts of legal documents dedicating and restricting the common areas and establishing the means of common area ownership and maintenance.
6. ~~6-~~Proposed off-street parking and circulation plan showing the location and arrangement of parking spaces and any driveways for ingress and egress to and from adjacent streets and highways.

6.830 PRELIMINARY PLAN REVIEW CRITERIA ~~AND APPROVAL~~

The Planning Director or employees under his or her direction will review the preliminary multi-building site plan within 15 working days to ensure conformance with the requirements of the Zoning and Subdivision Ordinances. ~~The Planning Director or Designated Administrative Agent will review the preliminary site plan to insure conformance with the requirements of this ordinance.~~ In addition, the multi-building site plans will be evaluated on the standards listed below.

1. ~~1-~~The character, amount and arrangement of open space areas will meet the requirements of Article 7 of the Zoning Ordinance. ~~adequately serve the needs of residential or non-residential occupants.~~
2. ~~2-~~Proposed means of dedication, ownership, and maintenance of all common areas, the restrictions on its uses, and the organization and authority of such associations as may be established for ownership and maintenance of common areas will assure the continuance of such space for its designed purpose.
3. ~~3-~~Site planning for the overall development will provide protection of the development from potentially adverse surrounding influences and protection of surrounding areas from potentially adverse influences within the development.
1. ~~4-~~The terms and conditions proposed for development over a period of years are sufficient to protect the interests of the public and the occupants of the development.

Commented [ES22]: Removed subjective language.

All Planning Staff comments must be addressed prior to the resubmission of any revised preliminary multi-building site plan for approval. If subsequent corrections are required, Planning Staff shall have 15 working days to review and comment on any revised preliminary multi-building site plan.

The Planning Director or staff under his direction is authorized to approve or disapprove the preliminary site plan for a multi-building site. The Planning Director or the Planning Director's Designee shall prepare a written decision setting forth findings concerning the preliminary multi-building site plan's compliance with applicable regulations. Notice of the decision to approve or deny a final plat shall be provided in accordance with N.C.G.S. § 160D-403. Administrative decisions to deny approval of a preliminary multi-building site plan may be appealed in accordance with Section 4.000.

6.840 ~~PRELIMINARY PLAN APPROVAL AND OF FINAL PLAT~~

~~The Planning Director or staff under his direction is authorized to approve, approve with conditions, or disapprove the preliminary site plan for a multi-building site which adheres to or shows only minor revisions (Section 3.100.11) to:~~

- (1) ~~An approved parallel conditional district or overlay district zoning plan which specifies the location of open space, edge conditions, approximate location of buildings, internal circulation, and relationship to public streets; or~~
- (2) ~~A sketch plan which has been reviewed by the Planning Board and approved by the Town Board in accordance with Section 6.300f.~~

Commented [ES23]: These are subjective and need to be removed.

For multi-building sites which do not adhere to a detailed approved plan as described in (1) or (2) above, the Planning Board will recommend and the Town Board will take action to approve, tentatively approve with conditions, or deny the preliminary site plan. When granted tentative approval with conditions, the developer must submit a revised plan that is in conformance with those conditions. If a preliminary site plan is disapproved, the Planning Director will furnish a written notice of the denial and the reasons for the denial upon request of the applicant.

Upon approval of a preliminary plan for a multi-building site, the final plat for the multi-building site ~~or innovative housing development~~ shall be prepared in accordance with the requirements of Section 6.600 and shall contain the following additional information:

- (a) The use, height, bulk, and location of all buildings and structures;
- (b) All land uses; and
- (c) The location, use, improvements, ownership, and manner of maintenance for all open space and for all common areas.

Planning Staff shall have 15 working days to review and comment on the final plats for multi-building sites to ensure compliance with the applicable requirements. All staff comments should be addressed prior to the resubmission of a revised final plat for review. If subsequent corrections are needed, Planning Staff shall have 15 working days to review any revised final plat.

The Planning Director or the Planning Director's Designee shall prepare a written decision setting forth findings concerning the final plat's compliance with applicable regulations. Notice of the decision to approve or deny the final plat for a multi-building site shall be provided in accordance with N.C.G.S. § 160D-403. Administrative decisions to deny approval of a final plat may be appealed in accordance with Section 4.000.

~~The Planning Director or staff under his direction is authorized to approve, approve with conditions, or disapprove the final plat for a multi-building site which adheres to or shows only minor revisions (3.100.11) to an approved preliminary plan. If the final plat includes major revisions to the approved preliminary plan, it will be placed on the agendas of the Planning Board for recommendation and the Town Board for approval, approval with conditions, or disapproval.~~

~~An administrative disapproval may be appealed to the Planning Board and Town Board in accordance with the provisions of Section 4.000.~~

6.850 -TRAFFIC IMPACT ANALYSIS

When re required, a Traffic Impact Analysis shall be provided by the applicant, in accordance with Article 14 of the Town Zoning Ordinance, which are incorporated by this reference.

7.000 SUBDIVISION DEVELOPMENT REQUIREMENTS.

7.100 DESIGN STANDARDS FOR STREETS

Detailed construction standards and specifications for state standard streets are contained in the Mecklenburg County Land Development Standards Manual. For Town Streets, the standards of Article 5 of the Huntersville Zoning Ordinance and the Huntersville Land Development Standards Manual shall control.

7.110 RIGHT-OF-WAY

1. On proposed streets, right-of-way must be of sufficient width to accommodate the required cross section. However, in no case will the dedicated and/or reserved right-of-way be proposed to be less than the standards below. The Town Board, on the advice of the Town Engineer or their designee or other designated consulting engineer, may certify that special circumstances exist which make the dedication and/or reservation of the full right-of-way unnecessary or impractical.

Minimum R.O.W. by Street Classification

Street Type	Feet
Freeway	250-350
Boulevard	100-200
Other Major Thoroughfare	100-120
Minor Thoroughfare	70-100
Town Streets (Collector, Local, Alley)	Varies according to the standards of Article 5 of the Huntersville Zoning Ordinance and Town's Engineering Standards and Procedures Manual.

These street types (above) are consistent with the Comprehensive Transportation Plan (CTP)-Highway Map (as adopted by the Charlotte Regional Transportation Planning Organization (CRTPO)) and the Town Engineering Standards and Procedures Manual. These standards represent the normally required rights-of-way for highways designated on the CTP. These widths may be modified by contextual design, environmental impact studies, or other adopted planning documents. Additional right-of-way may be necessary in the area of interchanges, intersections, cut/fill areas, or areas where horizontal or vertical alignments must be improved and will be determined on a case-by-case basis.

2. Along existing streets, neither right-of-way dedication nor reservation is required unless:

- (a) An existing street has a right-of-way less than 60 feet wide and will provide access to the subdivision, in which case a right-of-way up to 30 feet on each side of the centerline may be required to be dedicated; or
- (b) An existing street will provide access to the subdivision and volume of traffic projected to be generated by the subdivision necessitates intersection and/or other improvement(s), in which case dedication of right-of-way sufficient for the subdivision developer to make intersection and/or other improvements to serve said subdivision may be required.

The Town Board, after consulting applicable plans and programs and after consulting with appropriate county, state, and/or federal officials, is responsible for classifying streets or segments thereof within the zoning and subdivision jurisdiction of the Town of Huntersville.

7.120 FREEWAYS (NEW)

Whenever a tract of land to be subdivided includes any part of the right-of-way of a planned freeway or extension of a freeway, as shown on the adopted Comprehensive Transportation Plan, and whenever such a right-of-way has been further defined by acceptable locational procedures sufficient to identify properties to be affected, the right-of-way for the freeway must be reserved, platted in the location and to the width specified in the plan, and remain undeveloped pending future acquisition by the state or other governmental unit. The subdivider is responsible for the reservation of the right-of-way in accordance with the provisions of Section 8.110, Improvement Responsibility. The entire right-of-way must be shown as such on the final plat. All measurements involving minimum lot standards under this ordinance and under the [Zoning Ordinance](#) will be made at the edge of the full right-of-way. Right-of-way that is dedicated by the subdivider will count toward the transfer of development rights in accordance with Section 7.135.

7.130 ARTERIAL STREET RIGHT-OF-WAY (NEW STREETS)

Whenever a tract of land to be subdivided includes any part of a planned arterial or extension of an existing arterial street shown on the adopted Comprehensive Transportation Plan, and whenever a right-of-way for such a street has been further defined by acceptable locational procedures sufficient to identify properties to be affected, a right-of-way for the arterial street must be platted in the location and to the width specified in the plan. The subdivider is responsible for the dedication and/or reservation of the right-of-way in accordance with the provisions of Section 8.110, Improvement Responsibility. The entire right-of-way (that which has been reserved and that which has been dedicated) must be shown as such on the final plat.

All measurements involving minimum lot standards under this ordinance and under the zoning ordinance will be made at the edge of the full right-of-way. Arterial Street right-of-way that is dedicated by the subdivider will count toward the transfer of development rights in accordance with Section 7.135.

7.135 TRANSFER OF DEVELOPMENT RIGHTS — R/W DEDICATION

All of the area dedicated by the developer as right-of-way for any public street may be used in the computation of development rights, but may not be used for the computation of lot area or open space, or fulfill storm water detention, or any other mandatory requirement. On-street parking which is planned, provided for, and approved will, however, be applied to the mandatory parking requirement. A developer may choose to dedicate the full right-of-way and thereby use the entire dedicated area for the density calculation.

7.150 CUL-DE-SAC

Cul-de-sacs (streets designed to be permanently closed at one end), may not be longer than 350 feet and must be terminated by a vehicular turnaround design as accepted by the Town Engineering Department; provided, however, that this requirement may be waived where topographical or other unusual conditions exist.

7.170 STREET OFF-SETS

Where there is an offset in the alignment of a street across an intersection, the offset of the centerlines should not be less than 300 feet for arterials. Offsets for other street types will be determined based upon projected traffic volumes and the applicability of traffic calming measures.

7.180 BLOCK LENGTHS AND WIDTHS

Block lengths may generally not exceed the standards established in Article 5 of the Zoning Ordinance, except as hereinafter provided. Where a longer block will reduce the number of railroad grade crossings, major stream crossings, or where longer blocks will result in an arrangement of lots and public space more consistent with Articles 5 and 7 of the Huntersville Zoning Ordinance, ~~the Town Board may authorize~~ greater block lengths may be authorized.

7.200 DESIGN STANDARDS FOR LOTS

7.210 FRONTAGE ON STREET

Each lot must have frontage on a street, but with the following exceptions:

1. ~~4.~~ Any lot for which a residential use has been legally established prior to the effective date of this ordinance in accordance with provisions of ~~Section Article~~ 8.1.1 of the Zoning Ordinance permitting establishment of use on a lot served by a private and exclusive recorded easement of at least 15 feet in width connecting said lot to a public street, may be used as if it abutted a street, provided that it is served by a driveway located on said easement.
2. ~~2.~~ Any lot for which a non-residential use has been legally established prior to the effective date of this ordinance in accordance with ~~provisions Section 8.1.2 of the Zoning Ordinance~~ permitting establishment of use on a lot served by a private, exclusive recorded easement of at least 15 feet in width connecting said lot to a public street, may be construed in the same manner as a lot abutting a street provided that it is served with a driveway built to appropriate standards located on the permanent, recorded easement.
3. ~~3.~~ Up to six residential lots may be served by a privately maintained easement with a minimum right-of-way designed according to the specifications of the Rural (R) and Transitional Residential (TR) Districts' Farmhouse Cluster development (Section 3.2.1(e) & Section 3.2.2(e)). Any lots created pursuant to Section 3.2.1(f) & Section 3.2.2(f), Conservation Subdivision, may also be served by a privately maintained easement with a minimum 20-foot right-of-way.
4. ~~4.~~ A site-specific development plan may be considered for approval in the TC, NC, NR, OPS, and TND-O districts where residential and/or non-residential structures front upon a private courtyard,

carriageway, or pedestrian way, where adequate access by emergency vehicles is maintained by way of a rear alley and where the off-street placement of uses does not diminish the orientation of building fronts on the public street.

5. ~~5.~~A site-specific development plan may be considered for approval in the Campus Institutional and Corporate Business Districts to permit interior lot access by private drives so long as business and emergency access is furnished to all interior building sites, and proposed buildings at the perimeter of the campus and corporate development front upon public street(s) or are buffered in accordance with this ordinance. It is intended that subdivisions be primarily served by public streets and use of private drives is minimal. Private drives may be appropriate where property configuration or environmental constraints make their use a practical alternative. Private drives shall be constructed in accordance with Mixed Use/Retail and Industrial Street Standards as found in the Engineering Standards and Procedures Manual and sidewalks shall be provided on at least one side of the private drive. See the Campus and Corporate Business Districts.
6. ~~6.~~To access a lot or lots in the Highway Commercial District, where factors beyond developer control, such as a limited access highway, an existing development, or the location of an existing intersection, prohibit completing a street connection, a private drive may be substituted for the interior street which cannot be connected to the public network.

7.220 SIDE LINES

Side lot lines shall, as nearly as practicable, be at right angles or radial to street lines. Where side lot lines intersect at the rear of the lot, the angle of intersection shall not be less than 60 degrees. The requirement of this paragraph shall not be applicable to lots in Conservation Subdivisions.

7.230 LOT SIZES

Lot dimensions and yard dimensions are controlled by the Huntersville Zoning Ordinance.

7.240 BUILDING LINES

Building lines shall be established on all lots in residential subdivisions and shall be determined on the basis of zoning district and classification of any abutting streets, existing or planned, in accordance with Section 8.15 of the Huntersville Zoning Ordinance.

7.270 DRIVEWAY CONNECTIONS

Prior to the construction of any driveway or other connection within the right-of-way of a public street, a permit must be secured from the North Carolina Department of Transportation or the Town of Huntersville, for a state or a local road respectively. However, in a residential major subdivision, access to individual lots from streets constructed as part of the subdivision shall be reviewed and approved at the time each building permit is issued and individual driveway permits will not be required on a ~~lot-by-lot~~lot-by-lot basis.

7.280 LOTS SUBJECT TO FLOODING

The Land Use and Environmental Services Agency (LUESA) will determine which lots are subject to significant flooding, which will include those lots along any significant water course, whether or not the stream is enclosed with pipes or culverts, and may also include areas where it can reasonably be expected that significant overland flow of stormwater or flooding will occur. If any part of a proposed lot is subject to flooding, subdivider shall make a determination of the crest elevation of the 1% annual chance flood level (the "100-year flood") in accordance with generally accepted engineering practice, which is to be submitted with the seal and signature of a professional engineer to the Town Engineering Department. This determination must reflect the actual conditions imposed by the completed subdivision and must give due consideration to the effects of urbanization and obstructions.

No proposed building lot that is wholly or partly subject to flooding shall be approved unless there is established on the final plat a line representing an actual contour, as determined by field survey, at an

elevation one foot above the 100-year flood crest. Such line shall be known and identified on the final plat as the “Storm Water Elevation Line” (SWEL). In addition, a “Storm Water Protection Elevation” for each lot subject to flooding shall be noted on the lot plan as determined by the Huntersville Engineering Department staff based on the “Storm Water Elevation Line” (SWEL), or for lots upstream of street crossings, the low elevation of the street plus one foot, whichever is greater.

All habitable buildings or structures shall be located outside the “Storm Water Elevation Line”, or the lowest usable and functional part of the structure shall not be below the Storm Water Protection Elevation. “Usable and functional part of the structure” shall be defined as being inclusive of living areas, basements, sunken dens, basement utility rooms, crawlspaces, attached carports, and mechanical appurtenances such as furnaces, air conditioners, water pumps, electrical conduits, and wiring, but shall not include water lines or sanitary sewer traps, piping and clean-outs; provided, openings serving the structure are above the Storm Water Protection Elevation.

Where only a portion of a proposed lot is subject to flooding as defined herein, such lot may be approved only if there will be available for building a usable lot area of not less than 1200 square feet. The usable lot area shall be determined by deducting from the total lot area the area of all yards and setbacks required by the applicable zoning district regulations and any remaining area of the lot lying below the Storm Water Elevation Line.

During the construction of a subdivision, the developer shall maintain the streambed of each stream, creek, or backwash channel contiguous to the subdivision in an unobstructed state and shall remove from the channel and bank of the stream all debris resulting from the land development process, including logs, timber, junk, and other accumulations of a nature that would, in time of flood, clog or dam the passage of waters in their downstream course. Installation of appropriately sized stormwater drains, culverts, bridges, or erosion control devices will not be construed as obstructions in the stream. In areas of the county that are covered by the provisions of the Floodplain Regulations, the Floodplain Regulations will supersede the provisions of this ordinance regarding land within the Community and FEMA Special Flood Hazard Areas.

7.290 LOTS WITHIN THE MOUNTAIN ISLAND LAKE WATERSHED PROTECTION AREA

The purpose of the Mountain Island Lake Watershed Protection Area is to provide for the protection of public water supplies as required by the North Carolina Water Supply Watershed Protection Act and regulations promulgated thereafter.

Mountain Island Lake Watershed Protection Area is that area within Mecklenburg County which contributes surface drainage into Mountain Island Lake and which is bounded as follows: Beginning at the Mountain Island Lake Dam on the Catawba River and proceeding along the ridgeline in an easterly direction to Rozzelle’s Ferry Road and proceeding thence in a south easterly direction, along Rozzelle’s Ferry Road to the intersection of Mt. Holly-Huntersville Road, and thence proceeding along Mt. Holly-Huntersville Road in a northeasterly direction to the intersection of Hambright Road and thence proceeding in an easterly direction along Hambright Road to N.C. 115 and thence proceeding in a northerly direction along N.C. 115 to the intersection of N.C. 73 and thence in a westerly-southwesterly direction along N.C. 73 to the Lake Norman Dam and thence proceeding in a southerly direction along the Catawba River to the beginning point.

A map showing the Mountain Island Lake Watershed Protection Area and the subareas CA1, CA2, CA3, CA4, PA1, PA2, and PA3 is incorporated into the Official Zoning Map. In any event of any difference or inconsistency between the areas as depicted on the map and the definition, the map or definition which describes or depicts the greater geographical area shall control. Should these subareas be more specifically defined in the Huntersville Zoning Ordinance by use of major landmarks such as roads and property lines to adjust the subarea boundaries, the subarea boundaries as described in the Zoning Ordinance shall control over those described in this ordinance.

1. EXCEPTIONS TO APPLICABILITY.

- (a) ~~(a)~~ Existing development, as defined in this section, is not subject to the requirements of the Mountain Island Lake Watershed Overlay District.

(a)(b) An existing lot owned prior to the effective date of this ordinance, regardless of whether or not a vested right has been established, may be developed for single family residential purposes subject only to the buffer requirements of sub-sections 3. or 4. of this section, whichever is applicable; however, this exemption is not applicable to multiple contiguous lots under single ownership.

(b)(c) Existing public utilities may expand without being subject to the restrictions of this part provided that:

(i) (i) Such expansion complies with all applicable laws of the State of North Carolina and the United States of America; and

(ii) (ii) Discharges associated with the existing public utilities may be expanded, however the pollutant load shall not be increased beyond presently permitted levels.

(d) This Section 7.290 shall not require private property owners to install new or increased stormwater controls for (i) preexisting development or (ii) redevelopment activities that do not remove or decrease existing stormwater controls. When a preexisting development is redeveloped, either in whole or in part, increased stormwater controls shall only be required for the amount of impervious surface being created that exceeds the amount of impervious surface that existed before the redevelopment. Provided, however, a property owner may voluntarily elect to treat all stormwater from preexisting development or redevelopment activities described herein for the purpose of exceeding allowable density under the applicable water supply watershed rules as provided in N.C.G.S. § 143-214.5(d3) and as further described in Article 3 of the Town of Huntersville Zoning Ordinance.

Commented [JS24]: Required per HB 218 Statute Amendment

Commented [ES25R25]: Made separate paragraph

2. DEFINITIONS.

For the purpose of this section, the following terms will have the definitions indicated below.

BMPs. Best Management Practices.

A structural or non-structural management-based practice used singularly or in combination to reduce non-point source input to receiving waters in order to achieve water quality protection goals.

Non-structural BMPs.

Non-engineered methods to control the amount of non-point source pollution. These may include land-use controls and vegetated buffers.

Structural BMPs.

Engineered structures that are designed to reduce the delivery of pollutants from their source or to divert contaminants away from the water supply. Structural BMPs allowed for use under the High Density Option are those which have been approved by the North Carolina Division of Water Quality and Mecklenburg County. These are wet detention ponds, extended dry detention ponds, and grass swales.

Buffer.

A natural or vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized, and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

Built-upon Area (B.U.).

Built-upon areas shall include that portion of a development project and/or lots that are covered by impervious or partially impervious cover including buildings, pavement, gravel areas (e.g. roads, parking

lots, paths), recreation facilities (e.g. tennis courts), etc. (NOTE: Wooden slatted decks and the water area of a swimming pool are considered pervious.)

Critical Area.

The area adjacent to a water supply intake where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area of the Mountain Island Lake Watershed Protection Area is divided into four subareas as follows:

CA1 - Lower Gar Creek.

From normal pool elevation of Mountain Island Lake extending up Gar Creek to Beatties Ford Road and to approximately the ridgeline along the north side of Gar Creek and to Mt. Holly-Huntersville Road on the south side of Gar Creek.

CA2 - Upper Gar Creek.

From Beatties Ford Road upstream along Gar Creek to the limits of the Gar Creek drainage basin and to approximately the ridgeline along either side of Gar Creek.

CA3 - McDowell Creek.

From normal pool elevation of Mountain Island Lake extending one mile upstream on McDowell Creek and to approximately the ridgeline along either side of McDowell Creek.

CA4 - Lake Front.

Extending landward ~~one-half~~^{one-half} mile from normal pool elevation along Mountain Island Lake and the Catawba River between Cowan's Ford Dam and Mountain Island Lake Dam.

Discharging Landfill.

A landfill which discharges treated leachate and which requires a National Pollution Discharge Elimination System (NPDES) permit.

Existing Development.

Existing development, as defined for the purpose of this section, means projects that are built or projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of the amendment incorporating Water Supply Watershed Regulations into the Huntersville Subdivision Ordinance based on at least one of the following criteria:

- (1) ~~(4)~~ Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project; or
- (2) ~~(2)~~ Having an outstanding valid building permit; or
- (3) ~~(3)~~ Having an approved site specific or phased development plan under the provisions of Section 2.2.2 of the Huntersville Zoning Ordinance.

Nonconforming Lot of Record.

A lot described by a plat or added that was recorded prior to the effective date of this ordinance (or its amendments) that does not meet the minimum lot size or other development requirements of this ordinance.

Normal Pool Elevation.

The Mountain Island Lake normal pool elevation which is at contour interval 648 feet above the Mean Sea Level, United States Geological Survey (U.S.G.S.) Datum.

Perennial Stream.

A stream or creek containing a continuous natural flow of water throughout the year except possibly under exceptionally dry conditions. They are identified on United States Geological Survey Quadrangle Maps by solid blue lines.

Protected Area.

The area adjoining and upstream of the Critical Areas and encompassing the remainder of the watershed where risk of water quality degradation from pollution is less than in the Critical Area. The Protected Area is divided into three subareas as follows:

PA1

The area extending from the outer limits of the critical areas to five hydrologic miles from the normal pool elevation and draining to Mountain Island Lake.

PA2

The area extending from the outer limit of the PA1 area where it intersects with N.C. 73 and running in a north-northeasterly direction along N.C. 73 to the intersection of I-77 and thence proceeding in a southerly direction along I-77 to the intersection of Gilead Road and thence in an easterly direction along Gilead Road to the intersection of N.C. 115 and thence in a southerly direction along N.C. 115 to the intersection of Hambright Road and thence in a westerly direction along Hambright Road to the intersection of Mt. Holly-Huntersville Road and thence in a northwesterly direction along the outer limits of the CA2 and PA1 areas to the beginning point.

PA3

The area extending from the outer limits of the PA2 area to the limits of the Mountain Island Lake Watershed.

Septic Tank System.

A ground absorption sewage disposal system consisting of a holding or settling tank and a ground absorption field.

Watershed.

The entire land area contributing surface drainage into a stream, creek, lake, or other body of water.

Water Dependent Structures.

Those structures for which the use requires access or proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, piers, bulkheads, and similar structures. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.

3. CRITICAL AREA DEVELOPMENT STANDARDS.

Only development activities that require an erosion/ sedimentation control plan under Mecklenburg County regulations, as may be amended from time to time, are required to meet the development standards of this subsection.

For individual buildings or for development projects within the Critical Areas, the following **impervious area limitations** are established on a building or project basis, respectively:

CA1	6% B.U. ¹
CA2	12% B.U. ¹
CA3	12% B.U. ¹
CA4	24% B.U. ¹

1 Residential subdivisions approved after 2/17/03 shall reserve, at minimum, 1% of the lot area but in no case less than 150 sq. ft. impervious area per lot to allow for addition of future impervious areas by homeowner/occupant

Notwithstanding the above, an applicant shall be allowed to exceed the allowable Built-Up-on Area (density) under the water supply watershed rules if all of the following circumstances apply:

- 1) ~~(1)~~ The property was developed prior to October 1, 1993, the effective date of the local water supply watershed program.
- 2) ~~(2)~~ The property has not been combined with additional lots after January 1, 2021.
- 3) ~~(3)~~ The property has not been a participant in a density averaging transaction as provided in Article 3 of the Zoning Ordinance.
- 4) ~~(4)~~ The current use of the property is nonresidential.
- 5) ~~(5)~~ In the sole discretion, and at the voluntary election, of the property owner, the stormwater from all of the existing and new built-upon area on the property is treated in accordance with all applicable local government, State, and federal laws and regulations.
- 6) ~~(6)~~ The remaining vegetated buffers on the property are preserved in accordance with this Section.

Commented [JS26]: Required by HB 218 State Statute

Vegetative buffers are required in the Critical Areas along the shoreline of Mountain Island Lake, measured from the normal pool elevation, and along all perennial streams, measured from the bank on each side of the stream.

CA1	100 feet or 100-year flood plain boundary, whichever is greater
CA2	100 feet or 100-year flood plain boundary, whichever is greater
CA3	100 feet or 100-year flood plain boundary, whichever is greater
CA4 (lake shore)	100 feet

No permanent structures, impervious covers, septic tank systems or any other disturbance of existing vegetation shall be allowed within the buffer except as follows:

- a. No trees larger than ~~2-inch~~2-inch caliper are to be removed except for dead or diseased trees. Undergrowth and trees less than 2 inch caliper may be removed to be replaced by an effective stabilization and filtering ground cover based upon Mecklenburg County Water Quality Program guidelines and as approved on a plan submitted to the Mecklenburg County Water Quality Program.
- b. Streambank or shoreline stabilization is allowed as approved on a plan submitted to the Town Engineering Department and the Mecklenburg County Water Quality Program.
- c. Water dependent structures and public projects such as road crossings and greenway paths are allowed where no practical alternatives exist. These activities should minimize built-upon area, direct runoff away from surface waters, and maximize the utilization of nonstructural BMP's and pervious materials.
- d. The Town can require enhancement of the existing vegetation in the buffer if necessary so that the buffer can effectively perform its filtering and absorption functions based on the most recent edition of the "Watershed Buffer Guidelines for Mecklenburg County, NC".

4. PROTECTED AREA DEVELOPMENT STANDARDS.

Only development activities that require an erosion/sedimentation control plan under the Town of Huntersville regulations, as may be amended from time to time, are required to meet the development standards of Section 7.290.4 of this ordinance.

For individual buildings or for development projects within Protected Areas 1 and 2, the following **impervious area limitations** are established on a building or project basis, respectively:

PA1 and PA2, low density option	24% B.U. with curb and gutter streets ¹ 36% B.U. without curb and gutter streets ¹
PA1 and PA2, high density option, where permitted**	70% B.U. with BMP

¹ **Residential subdivisions approved after 2/17/03 shall reserve, at minimum, 1% of the lot area but in no case less than 150 sq. ft. impervious area per lot to allow for addition of future impervious areas by homeowner/occupant**

Notwithstanding the above, an applicant shall be allowed to exceed the allowable Built-Up-On Area (density) under the water supply watershed rules if all of the following circumstances apply:

- 1) The property was developed prior to October 1, 1993, the effective date of the local water supply watershed program.
- 2) The property has not been combined with additional lots after January 1, 2021.
- 3) The property has not been a participant in a density averaging transaction as provided in Article 3 of the Zoning Ordinance.
- 4) The current use of the property is nonresidential.
- 5) In the sole discretion, and at the voluntary election, of the property owner, the stormwater from all of the existing and new built-upon area on the property is treated in accordance with all applicable local government, State, and federal laws and regulations.
- 6) The remaining vegetated buffers on the property are preserved in accordance with this Section.

Commented [JS27]: Required by HB 218 State Statute

Vegetative buffers are required in the Protected Areas along all perennial streams, measured from the bank on each side of the stream.

** STRUCTURAL BMP^{§§}. Wet detention ponds, or alternative stormwater management measures limited to extended dry detention ponds and grass swales, are required where the **High Density** Option is permitted within the Protected Area. Other types of Structural BMP's may also be required.

PA1, low density option	50 feet
PA2, low density option	30 feet; 50 feet for agricultural uses
PA1, high density option	100 feet
PA2, high density option	100 feet

In the PA1 and PA2 subareas non-impervious recreational development and non-impervious pedestrian trails may be allowed in the required buffer if located a minimum of 30 feet from the stream bank.

High-density option is permitted in subareas PA1 and PA2.

5. POSTING OF FINANCIAL SECURITY REQUIRED

When Structural BMPs (wet detention ponds and all other BMPs) are required under the High-Density Option, the approval of the High-Density Development Permit will be subject to developer compliance with Section 8.400 of the Huntersville Subdivision Ordinance.

7.295 LOTS WITHIN THE LAKE NORMAN WATERSHED PROTECTION AREA

The purpose of the Lake Norman Watershed Overlay District is to provide for the protection of public water supplies as required by the North Carolina Water Supply Watershed Protection Act and regulations promulgated thereafter.

The Lake Norman Watershed Protection Area is that area within the jurisdiction of the Town of Huntersville which contributes surface drainage into that portion of the Catawba River known as Lake Norman and its tributaries. The Lake Norman Watershed Protection area is specifically defined on the Huntersville Zoning Maps with the designation LN-O (Lake Norman Overlay District).

1. EXCEPTIONS TO APPLICABILITY.

- (a) Existing development, as defined in Section 7.290, subsection 2., is not subject to the requirements of the Lake Norman Watershed Overlay District.
- (b) An existing lot owned prior to the effective date of this ordinance, regardless of whether or not a vested right has been established, may be developed for single family residential purposes subject only to the buffer requirements of subsection 3. of this section; however, this exemption is not applicable to multiple contiguous lots under single ownership.
- (c) Existing public utilities may expand without being subject to the restrictions of this part provided that:
 - (i) ~~(i)~~ Such expansion complies with all applicable laws of the State of North Carolina and the United States of America; and
 - ~~(i)(ii)~~ ~~(ii)~~ Discharges associated with the existing public utilities may be expanded, however the pollutant load shall not be increased beyond presently permitted levels.

~~(d) This Section 7.290 shall not require private property owners to install new or increased stormwater controls for (i) preexisting development or (ii) redevelopment activities that do not remove or decrease existing stormwater controls. When a preexisting development is redeveloped, either in whole or in part, increased stormwater controls shall only be required for the amount of impervious surface being created that exceeds the amount of impervious surface that existed before the redevelopment. Provided, however, a property owner may voluntarily elect to treat all stormwater from preexisting development or redevelopment activities described herein for the purpose of exceeding allowable density under the applicable water supply watershed rules as provided in N.C.G.S. § 143-214.5(d3) and as further described in Article 3 of the Town of Huntersville Zoning Ordinance.~~

Commented [JS28]: Required per HB 218 Statute Amendment

Commented [ES29R29]: Make separate paragraph

2. DEFINITIONS.

The definitions below supplement the definitions of section 7.290, subsection 2.

Lake Norman Watershed Critical Area

The Lake Norman Critical Area is defined as the land area which begins at the normal pool elevation of Lake Norman and extends one-half mile inland or to the ridgeline, whichever is closest, as shown more specifically on the Huntersville Zoning Maps. Lake Norman Normal Pool Elevation.

The Lake Norman normal pool elevation, which is at contour interval 760 feet above Mean Sea Level, as determined by United States Geological Survey (U.S.G.S.) Datum.

3. LAKE NORMAN CRITICAL AREA DEVELOPMENT STANDARDS

Only development activities that require an erosion/sedimentation control plan under the Town of Huntersville regulations, as may be amended from time to time, are required to meet the development standards of this subsection.

For individual buildings or for development projects within the Lake Norman Watershed Critical Area, the following impervious area limitations are established on a building or project basis, respectively:

CA, low density option	24% B.U. ¹
CA, high density option	50% B.U. with Structural BMP ¹

¹ Residential subdivisions approved after 2/17/03 shall reserve, at minimum, 1% of the lot area but not less than 150 sq. ft. impervious area per lot to allow for addition of future impervious areas by homeowner/occupant

Notwithstanding the above, an applicant shall be allowed to exceed the allowable Built-Up-on Area (density) under the water supply watershed rules if all of the following circumstances apply:

- 1) The property was developed prior to October 1, 1993, the effective date of the local water supply watershed program.
- 2) The property has not been combined with additional lots after January 1, 2021.
- 3) The property has not been a participant in a density averaging transaction as provided in Article 3 of the Zoning Ordinance.
- 4) The current use of the property is nonresidential.
- 5) In the sole discretion, and at the voluntary election, of the property owner, the stormwater from all of the existing and new built-upon area on the property is treated in accordance with all applicable local government, State, and federal laws and regulations.
- 6) The remaining vegetated buffers on the property are preserved in accordance with this Section.

Commented [JS30]: Required by HB 218 State Statute

Vegetative buffers are required along the shoreline of Lake Norman measured from the normal pool elevation and along each side of all perennial streams measured from the top of stream bank. Minimum buffer widths are:

CA, low density option	50 feet
CA, high density option	100 feet

No permanent structures, impervious covers, septic tank systems or any other disturbance of existing vegetation shall be allowed within the buffer except as follows:

- a. No trees larger than 2-inch caliper are to be removed except for dead or diseased trees. Undergrowth and trees less than ~~2-inch~~ 2-inch caliper may be removed to be replaced by an effective stabilization and filtering ground cover based upon the most recent edition of the "Watershed Buffer Guidelines for Mecklenburg County, NC" and as approved by the Mecklenburg County Water Quality Program.
- b. Stream bank or shoreline stabilization is allowed as approved on a plan submitted to the Town Engineering Department and the Mecklenburg County Water Quality Program.

- c. Water dependent structures and public projects such as road crossings and greenway paths are allowed where no practical alternatives exist. These activities should minimize built-upon area, direct runoff away from surface waters, and maximize the utilization of nonstructural BMP's and pervious materials.
- d. The Town can require enhancement of the existing vegetation in the buffer, if necessary, so that the buffer can effectively perform its filtering and absorption functions based on Mecklenburg County Water Quality Program guidelines.
- e. Non-impervious recreational development and non-impervious pedestrian trails are allowed in the required buffer if located a minimum of 30 feet from the stream bank.

High-density option is permitted in the Lake Norman Critical Area.

4. POSTING OF FINANCIAL SECURITY REQUIRED

When Structural BMPs (wet detention ponds and all other BMPs) are required under the High-Density Option, the approval of the High-Density Development permit will be subject to developer compliance with Section 8.400 of the Huntersville Subdivision Ordinance.

7.300 DESIGN STANDARDS FOR S.W.I.M. (SURFACE WATER IMPROVEMENT AND MANAGEMENT) STREAM BUFFERS

1. PURPOSE.

The purpose of a stream buffer network is to filter pollutants, store floodwaters, provide habitat, and contribute to the "green infrastructure." Stream systems are comprised of each stream and its respective drainage basin.

- Streams have the primary natural functions of conveying storm and ground water, storing floodwater, and supporting aquatic life.
- Vegetated lands adjacent to the stream channel in the drainage basin serve as "buffers" to protect the stream's ability to fulfill its natural functions. Buffers have the primary natural functions of protecting water quality by filtering pollutants, providing intermittent storage for floodwaters, allowing channels to meander naturally, and providing suitable habitat for wildlife.

2. DEFINITIONS.

For the purposes of this section, the following words and phrases shall be defined as specified below:

Best Management Practices (BMPs)

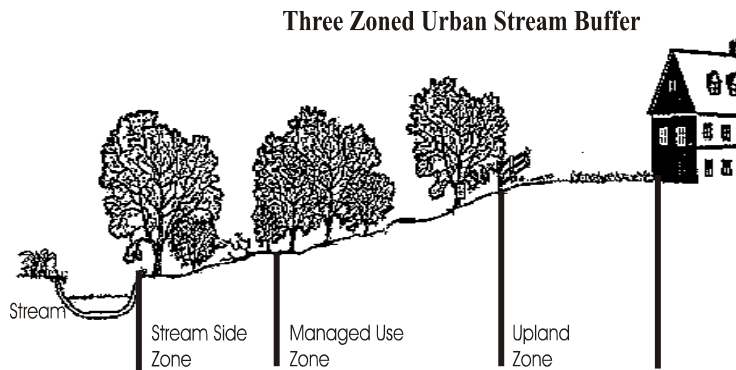
A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source input to receiving waters in order to achieve water quality protection goals.

Buffer.

A vegetated area through which storm water runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants.

Buffer Zones.

Buffer widths are measured in three (3) zones as shown below. The buffer width is measured horizontally on a line parallel to the surface water, landward from the top of the bank on each side of the stream.



Drainage Basin.

The area of land which drains to a given point on a body of water.

Floodway.

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than the allowable surcharge (currently one foot).

Flood Fringe.

The land area located between the limits of the floodway and the maximum elevation subject to inundation by the base (1% chance) flood.

Floodplain.

The low, periodically flooded lands adjacent to rivers and lakes. For land use planning purposes, the regulatory floodplain is usually viewed as all alongside a watercourse that would be inundated by the base (1% chance) flood; the floodway plus the flood fringe.

Mitigation.

Actions taken on-site and/or off-site to offset the effects of temporary or permanent loss of a buffer.

Top of Bank.

The landward edge of the stream channel during high water, ~~bankfull~~bank full conditions at the point where water begins to overflow onto the floodplain.

3. APPLICABILITY.

- (a) All properties shall comply with the buffer requirements of this Section except those which, as of the effective date of October 19, 1999, have previously secured a right to proceed by:
 - Being subject to a recorded subdivision plat;
 - Being subject to a subdivision sketch plan ~~approved by the Board of Commissioners~~ prior to the effective date of this Section;

- Being subject to a site specific development plan defined under [Section 2.2.2](#) of these ~~Zoning Ordinances~~; or
- Having otherwise secured a vested property right under state law.

(b) Redevelopment or expansion of development projects included in a), above, shall comply with the buffer requirements of this Section; however, uses and structures previously approved and constructed in a buffer may remain.

(c) A site-specific vesting plan amended ~~by action of the Board of Commissioners~~ subsequent to adoption of this Section shall comply, in its amended form, with the S.W.I.M. buffer requirements. However, uses and structures previously approved for construction in a buffer may remain.

~~(e)~~(a) Where stream buffers are also required as part of the Lake Norman or Mountain Island Lake Watershed Overlay Districts, the more stringent of the stream buffer requirements shall apply.

4. BUFFER DELINEATION.

S.W.I.M. Stream Buffers, throughout the jurisdiction of the Town of Huntersville shall be delineated **for the purposes of land development permits by an on-site stream delineation prepared by a certified professional using U.S. Army Corps of Engineers and/or N.C. Division of Water Quality methodology, which has been approved by the Town. Delineation** by Mecklenburg County through its geographic information system (GIS) ~~using the most current digital elevation model (DEM) of no greater than 10-foot cells~~ **is allowed for development not requiring a land development permit.** This stream buffer delineation including buffer widths shall be periodically updated as new data becomes available. The most recent delineation shall be provided for public use through Mecklenburg County's website.

Commented [JS31]: Consistent with Zoning Ordinance TA 21-08

5. MINIMUM BUFFER WIDTHS.

All perennial and intermittent streams draining less than 50 acres shall have a minimum 30-foot vegetated buffer including a 10-foot zone adjacent to the bank. Disturbance of the buffer is allowed; however, any disturbed area must be revegetated and disturbance of the 10-foot zone adjacent to the bank shall require stream bank stabilization using bioengineering techniques as specified in the Design Manual. All perennial and intermittent streams draining greater than or equal to 50 acres and less than 300 acres shall have a 35-foot buffer with two (2) zones, including a 20-foot stream side and 15-foot upland zone. Streams draining greater than or equal to 300 acres and less than 640 acres shall have a 50-foot buffer with three (3) zones, including a 20-foot stream side, 20-foot managed use and 10-foot upland zone. Buffers for streams draining greater than or equal to 640 acres shall be a 100 feet in width or include the entire floodplain, whichever is greater. This buffer shall consist of a 30-foot stream side, 45-foot managed use and 25-foot upland zone or the entire FEMA floodplain, whichever is greater. All buffers shall be measured from the top of the bank on both sides of the stream. A summary of minimum buffer widths is provided in the table below.

Table of Minimum Buffer Widths by Basin Size and Buffer Zone

Area Designation	Stream Side Zone	Managed Use Zone	Upland Zone	Total Buffer Width each side of Stream	Notes
< 50 acres	N/A	N/A	30	30 feet	(1), (2)
> 50 acres	20 feet	None	15 feet	35 feet	(2)
> 300 acres	20 feet	20 feet	10 feet	50 feet	(2)
> 640 acres	30 feet	45 feet	25 feet or balance of floodplain, whichever is	100 feet or entire floodplain, whichever is	(2), (3)

			greater	greater	
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Notes:

1. All perennial and intermittent streams draining less than 50 acres shall have a minimum 30-foot vegetated buffer including a 10-foot zone adjacent to the bank. Disturbance of the buffer is allowed; however, any disturbed area must be revegetated and disturbance of the 10-foot zone adjacent to the bank shall require stream bank stabilization using bioengineering techniques as specified in the Design Manual.
2. Buffer widths are surveyed horizontally on a line parallel to the surface water, landward from the top of the bank on each side of the stream.
3. Floodplain and buffer calculations will be based upon the FEMA flood fringe and floodway encroachment lines, as locally adopted and as may be amended from time to time.

6. BUFFER DESCRIPTION.

Buffer function, vegetation and use vary according to the different buffer zones and are described in the following table.

Table of Buffer Treatment by Buffer Zone

	Stream Side Zone	Managed Use Zone	Upland Zone	Notes
Function	Protect the integrity of the ecosystems	Provide natural filter; provide distance between upland development and the stream side zone	Prevent encroachment and filter runoff	
Land Disturbance/ Vegetative Requirements	<u>Undisturbed (no cutting, clearing or grading).</u> If existing tree density is inadequate, reforestation is required.	<u>Limited clearing (no grading).</u> Existing tree density must be retained to a minimum of 8 healthy trees of a minimum 6-inch caliper per 1,000 square feet. If existing tree density is inadequate, reforestation is encouraged.	<u>Herbaceous ground cover,</u> including grass, is allowed; maintenance of existing forest or reforestation is encouraged. <u>Limited grading</u> that does not change the functionality or extent of the floodplain is permitted.	(1)
Development Uses	<u>Very restricted.</u> Limited to flood control structures and bank stabilization (where permitted) as well as installation of parallel or near perpendicular ($\geq 75^\circ$) water and sewer utilities and near perpendicular road crossings ($\geq 75^\circ$) with stabilization of disturbed areas as specified in Section 7.300.10.	<u>Restricted.</u> Limited to those allowed in the Stream Side Zone, as well as bike paths and greenway trails up to 10 feet in width.	<u>Restricted.</u> Limited to those allowed in Stream Side and Managed Use Zones, as well as gazebos, non-commercial storage buildings less than 150 square feet, limited grading that does not change the functionality or extent of the floodplain, and storm water structural best management practices (BMPs) if approved in accordance with Section 7.300 11. b), as a condition of a buffer width variance or if they are located a	(2), (3), (4)

			minimum distance of 100 feet from the stream bank.	
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Notes:

- (1) When reforestation of disturbed buffers is required, tree planting shall be as specified in the Water Quality Buffer Implementation Guidelines.
- (2) Fill material **cannot** be brought into any required buffer. In the Upland Zone only, limited grading that does not change the extent or functional characteristics of the floodplain is permitted. Uses permitted in the buffer zones should be coordinated to ensure minimal disturbance of the buffer system. For example, if it is necessary to install utilities within the buffer, then if greenway trails are built they should follow these cleared areas instead of necessitating additional clearing.
- (3) Notwithstanding the uses and structures permitted in the "Upland Zone", the stricter standards of floodway regulations, if applicable, shall apply.
- (4) Greenway Trails referenced in this table refer exclusively to those approved by and dedicated to the Town of Huntersville or Mecklenburg County Parks and Recreation Departments. Other paths or trails in the buffer shall be in accordance with the Charlotte-Mecklenburg SWIM Stream Buffer Implementation Guidelines.

7. DIFFUSE FLOW REQUIREMENT.

Diffuse Flow Requirement. Diffuse flow of runoff shall be maintained in the buffer by dispersing concentrated flow through the use of level spreaders or other such devices to create sheet flow and by reestablishing vegetation. Techniques for providing diffuse flow are specified in the Charlotte-Mecklenburg BMP Design Manual.

- Maximum drainage area size shall be no greater than 10 acres for all outfalls discharging directly into a stream buffer.
- When practical, a drop structure should be installed prior to the last section of outfall pipe discharging to a buffer. A short length of outfall pipe should be laid flat (0% Slope Energy Dissipater), prior to the riprap apron or other energy dissipater.
- Concentrated runoff from ditches or other manmade conveyances shall be diverted to diffuse flow before the runoff enters the buffer.
- Periodic corrective action to restore diffuse flow shall be taken by the property owner as necessary to impede the formation of erosion gullies

8. PONDS THAT INTERSECT THE STREAM CHANNEL.

Ponds that intersect the stream channel shall have the same buffers as the original stream. Buffer requirements do not apply to wet ponds used as structural BMPs.

9. BUFFER DELINEATION.

The following buffer delineations are required:

- a) Buffer boundaries including all buffer zones must be clearly delineated on all site-specific plans for Board of Commissioner approval, on all construction plans, including grading and clearing plans, erosion and sediment control plans, and site plans.
- b) -The surveyed outside buffer boundary, including all buffer zones, must be clearly marked on-site with orange “tree-protection” or “high-hazard” fence prior to any land disturbing activities. Tree protection is required by Section 7.4(3) of this Ordinance. Where existing trees are to be preserved in a buffer zone, the limits of grading shall equal the drip line of those trees plus an additional five (5) feet on the upland side of the buffer. All Specimen and Heritage trees require a tree survey prior to land-disturbing activity and shall be saved in all buffer zones.
- c) The surveyed outside boundary of the buffer must be permanently marked with an iron pin at the intersection of the watershed buffer and each property line on each parcel following the completion of land disturbing activities and prior to occupancy. Properties greater than 200’ in width shall be marked at a maximum of 100’ intervals.
- d) Separate buffer zones must be permanently marked at highway stream crossings.
- e) Buffer boundaries including all buffer zones as well as all buffer requirements must be specified on the record plat, on individual deeds, and in property association documents for lands held in common.

10. BUFFER IMPACTS PERMITTED UNDER SECTION 7.300.

The following buffer impacts are permitted, but design and construction shall comply with the specifications provided in the Charlotte-Mecklenburg Buffer Implementation Guidelines and/or Design Manual for stabilization of disturbed areas to minimize negative effects on the quality of surface waters.

- Near perpendicular (75° or greater) road crossings for connectivity or transportation links where the Town of Huntersville has granted site plan approval.
- Near perpendicular (75° or greater) utility crossings as approved by Charlotte-Mecklenburg Utilities.
- Parallel water and sewer utility installation as approved by Charlotte-Mecklenburg Utilities, where a logical and appropriate basis for the impact is demonstrated, where disturbance of the Stream Side Zone is minimized to the maximum extent practicable, and where guidelines for restoring vegetation within buffers disturbed as a result of parallel utility installation are met. These guidelines are specified in the Charlotte-Mecklenburg Buffer Implementation Guidelines.
- Public paths and trails parallel to the creek outside the Stream side Zone and near perpendicular stream crossings in any zone. Pathways must use existing and proposed utility alignments or previously cleared areas and minimize tree cutting to the maximum extent practicable. To the extent possible, pathways shall preserve existing drainage patterns and avoid drainage structures that concentrate storm water.
- Incidental drainage improvements/repairs for maintenance.
- Individual pedestrian paths connecting homeowners to the stream in the form of narrow, pervious footpaths with minimal tree disturbance.
- New domesticated animal trails (farming) where existing trails are lost as a result of action beyond the farmer’s control. Stream crossings should be constructed to minimize impacts to

the Stream Side Zone and be maintained with fencing perpendicular to and through the buffer to direct animal movement.

- Mitigation approved by a state or federal agency acting pursuant to Sections 401 or 404 of the federal Clean Water Act.

11. APPEALS AND VARIANCES.

- a) An appeal to reverse or modify the order, decision, determination, or interpretation of the Zoning Administrator shall comply with the procedures and standards of [Section 4.000](#) of these ordinances as well as the requirements of the Huntersville Zoning Ordinance.
 - b) Special Variance Provisions/Mitigation Techniques.
 - When a “unnecessary hardship” would result from adherence to the buffer width requirements and/or buffer treatment standards, a petition for variance may be filed with the [Huntersville](#) Planning Staff in compliance with the procedures of [Section 4.300](#).
 - The Standards for Granting a Variance, as set out in [Section 4.400](#) of these ordinances shall be met. Site-specific mitigation plans using the techniques below, and approved by the designated agency, shall constitute conditions relating to the intent and standards of this ordinance, and may be attached to variance approval by the Town Board. Specifications for these mitigation techniques are provided in the Charlotte-Mecklenburg Buffer Implementation Guidelines. The techniques below are not construed to offset the requirement of Section 7.300 6. for diffuse flow.
- (1) Installation of Structural BMPs. The installation of an on-site structural BMP designed to achieve specified pollutant removal targets will allow for all proposed stream buffer impact on the specific site. The BMP must remain outside of the Stream Side Zone and Managed Use Zone. A detailed BMP design plan must be submitted to Charlotte-Mecklenburg Storm Water Services for approval based on specifications contained in the Charlotte-Mecklenburg Buffer Implementation Guidelines. This plan must also include a long-term maintenance strategy for the BMP, complete with the establishment of adequate financing to support the proposed maintenance practices.
 - (2) Stream Restoration. The owner may restore and preserve the buffer area on any stream of equivalent or greater drainage area the condition of which is determined to be qualified for restoration by Charlotte-Mecklenburg Storm Water Services on a 1:1 basis in linear feet of stream. This restoration shall include stream bank improvements and Stream Side and Managed Use Zone re-vegetation, in accordance with the Charlotte-Mecklenburg Buffer Implementation Guidelines and receive approval from the Charlotte-Mecklenburg Storm Water Services.
 - (3) Stream Preservation. The owner may purchase, fee simple, other stream segments at equivalent or greater drainage area on a 1:1 linear foot basis and convey fee simple and absolute title to the land to the Town of Huntersville, Mecklenburg County, or conservation trust, with a plan approved from the Charlotte-Mecklenburg Storm Water Services.
 - (4) Wetlands Restoration. On a 2:1 acreage basis for disturbed stream and buffer area (2 acres of wetland for each acre of disturbed area), the owner may provide a combination of the preservation and/or restoration of wetlands with protective easements and the implementation of structural or non-structural BMPs to achieve

specific pollutant removal targets within the impacted area. Restoration plan must be approved by Charlotte-Mecklenburg Storm Water Services.

- (5) Bottom Land Hardwood Preservation. On a 2:1 acreage basis for impacted stream and buffer area 2 acres of bottomland hardwood for each acre of disturbed area), the owner may provide a combination of the preservation of existing bottom land hardwood forest or other specifically approved natural heritage area by conservation easement or other legal instrument, and the implementation of structural or non-structural BMPs to achieve specific pollutant removal targets within the impacted area. Plan to be approved by Charlotte-Mecklenburg Storm Water Services.
- (6) Controlled Impervious Cover for Disturbance landward of Stream Side Zone. The owner may commit to, and provide, a specific site development plan for the parcel with requested buffer disturbance. The plan shall limit overall site impervious cover to less than or equal to 24%. Preservation of the Stream Side Zone is still required. Plan to be approved by Mecklenburg County Land Use and Environmental Services Agency.
- (7) Open Space Development. The submission of a site-specific development plan that preserves 50% of the total land area as undisturbed open space. Plan to be approved by Charlotte-Mecklenburg Storm Water Services.
- (8) Mitigation Credits: The purchase of mitigation credits through the Stream Restoration Program on a 1:1 basis, utilizing linear feet of stream impacted and the prevailing rate of purchase as established by the Charlotte-Mecklenburg Buffer Implementation Guidelines. Mitigation credits purchased under any other program (i.e., U.S. Army Corp of Engineers) shall not cover this requirement unless the issuing agency agrees to relinquish the funds to the appropriate local government agency.
- (9) Alternative mitigation. The list of mitigation techniques shall not prevent the creative development of alternative mitigation plans that achieve the purposes of this section.

12. POSTING OF FINANCIAL SECURITY REQUIRED.

When structural BMPs (set detention ponds and other BMPs) are approved for mitigation of a buffer disturbance, the approval will be subject to the owner filing a surety bond or letter of credit or making other financial arrangements which are acceptable to Charlotte-Mecklenburg Storm Water Services, in a form which is satisfactory to the County Attorney, guaranteeing the installation and maintenance of the required structural BMPs until the issuance of certificates of occupancy for seventy-five percent (75%) of all construction which might reasonably be anticipated to be built within the area which drains into the BMPs, allowing credit for improvements completed prior to the submission of the final plat. At such time that this level of occupancy is achieved, written notice thereof must be submitted by the owner to Charlotte-Mecklenburg Storm Water Services. The owner must also verify the adequacy of the maintenance plan for the BMPs, including the necessary financing to support the proposed maintenance practices. Charlotte-Mecklenburg Storm Water Services will inspect the structural BMPs and verify the effectiveness of the maintenance plan; if both are found to be satisfactory, the department will notify the owner within 30 days of the date of notice.

13. MAINTENANCE REQUIREMENTS FOR STRUCTURAL BMPS – CIVIL PENALTIES.

Maintenance of all structural BMPs will be the responsibility of the property owner or his designee. Any ~~person-responsible party~~ who fails to maintain the required BMPs in accordance with the approved maintenance plan will be subject to a civil penalty of not more than \$5,000. Each day that

the violation continues shall constitute a separate violation. No penalties shall be assessed until the person alleged to be in violation has been notified in writing of the violation by registered or certified mail, return receipt requested, or by other means which are reasonably calculated to give actual notice. The notice shall describe the nature of the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in assessment of a civil penalty or other enforcement action.

14. REQUEST FOR DETERMINATION OF BUFFER REQUIREMENT.

When a landowner or other affected party believes that the S.W.I.M stream buffer delineation maps described in Section 8.25.4 inaccurately depict buffer requirements, he or she shall request a determination from the Storm Water Administrator. Such determinations shall be made by the Storm Water Administrator based on an on-site evaluation using the U.S. Army Corps of Engineers and N.C. Division of Water Quality methodology for stream delineation as well as information from databases maintained for stream delineation by Mecklenburg County. Such determinations can also be made at the discretion of the Storm Water Administrator in the absence of a request from a landowner or other concerned party. The buffer requirements of this ordinance shall apply based on determinations made by the Storm Water Administrator. Surface waters that appear on the maps shall not be subject to this ordinance if an on-site determination by the Storm Water Administrator shows that they fall into one of the following categories.

- (1) Ditches and manmade conveyances other than modified natural streams.
- (2) Manmade ponds and lakes that are not intersected by a buffered stream segment and that are located outside natural drainage ways.
- (3) Ephemeral (storm water) streams.

8.000 REQUIRED WORK ON THE GROUND

8.100 STANDARDS AND SPECIFICATIONS

1. Unless specifically noted, before any final plat of a subdivision is eligible for final approval, and before any street is accepted for maintenance by the Town or the State Department of Transportation, minimum improvements (including drainage and soil erosion) must have been completed by the developer and approved by the Town Engineering/[Public Works](#) Departments, or other designated engineer, in accordance with the standards and specifications of the Land Development Standards Manual or Article 5 of the Huntersville Zoning Ordinance, whichever applies. Minimum improvements not completed and approved must be guaranteed in accordance with the provisions of Section 8.400.3 prior to final plat approval.
2. The intent of the specifications set out in this sub-section is to prescribe minimum requirements for storm drainage and street improvements to be undertaken by the developer. Satisfactory completion of these improvements, attested by approval of the Town Engineering/[Public Works](#) Departments, will qualify streets in the town to be accepted for maintenance by the town and streets in the extraterritorial jurisdiction to be accepted for maintenance by the town upon annexation or, in the case of state-standard streets, to be considered for maintenance by the state.

8.110 STREET IMPROVEMENT RESPONSIBILITY

In order to facilitate the provision of street rights-of-way and necessary improvements, the following sections establish responsibilities for the installation of streets and related improvements for each class of street. Any area of right-of-way which must be reserved for future acquisition may be dedicated at the option of the developer or property owner in return for the transfer of development rights, as

provided for in Section 7.100 of this ordinance. In addition, all streets built by the developer will be credited to the developer for the transfer of development rights.

Freeway-:

- New or extension of existing -Freeway or street:
 - **Right-of-way** — Entire width reserved by developer for future acquisition, provided the certification in Section 8.115 can be made
 - **Improvements** — Installed by public
- Existing Freeway:
 - No right-of-way or improvements required of developer

Boulevard:

- **Right-of way**— For new Boulevard, the developer is responsible for the dedication of up to 200 feet of right-of-way (100 feet each side of the centerline).

Other Major Thoroughfare:

- **Right-of-way** — For new Other Major Thoroughfare, the developer is responsible for the dedication of up to ~~400-120~~ feet of right-of-way (~~50-60~~ feet each side of the centerline). Along existing Other Major Thoroughfare, any development which requires specific improvements of the street to meet vehicular and/or pedestrian access needs of the particular development must dedicate the right-of-way necessary to accommodate those improvements.
- **Improvements** — Installed by the public in accordance with a schedule of public street improvements, except on existing streets where specific improvements are required to meet vehicular and/or traffic needs of the particular development in which case the developer must install the necessary improvements at the time of development. If, however, a public improvement project for the street is programmed and funded, the developer may be relieved of the actual construction, but remains liable for the costs of the improvements for which he or she would otherwise be responsible. The developer has the option, after consultation with the Town Manager and Town Engineering Department, to construct all or a portion of a new or extended street if the developer wants to make use of the street for access to the development. Development along new ~~Class III streets or extensions of Class III~~ Other Major Thoroughfare streets must limit access points to public streets or specifically approved street type entrances.

Commented [JS32]: Consistent with Comprehensive Transportation Plan and Section 7.110

Minor Thoroughfare

- **Right-of-way** — For new Minor Thoroughfare streets the developer is responsible for the dedication of up to ~~70-100~~ feet of right-of-way (~~35-50~~ feet each side of the centerline). Along existing Minor Thoroughfare streets any development which requires improvements of the street to meet vehicular and/or pedestrian access needs of the particular development must dedicate the right-of-way necessary to accommodate those improvements.
- **Improvements** — Installed by the public in accordance with a schedule of public street improvements, except where specific improvements are required to meet the vehicular and/or pedestrian access needs of the particular development in which case the developer must install the necessary improvements at the time of development. If, however, a public improvement project for the street is programmed and funded, the developer may be relieved of the actual construction, but remains liable for the costs of the improvements for which he or she would otherwise be liable. The developer has the option, after consultation with the Town Manager and Town Engineering Department, to

Commented [JS33]: Consistent with Comprehensive Transportation Plan and Section 7.110

construct all or a portion of a new or extended street if the developer wants to make use of the street for access to the development. Development along new ~~Class IV streets or extensions of Class IV~~ ~~Minor~~ ~~Thoroughfare~~ streets must limit access points to public streets or specifically approved street type entrances.

Town Streets:

- **Right-of-way** -- Dedicated by the developer.
- **Improvements** -- Constructed by the developer.

All streets must be constructed to comply with the minimum standards shown in the Land Development Standards Manual or Article 5 of the Huntersville Zoning Ordinance, whichever applies, and all applicable town or state requirements. Public improvements will be made in accordance with adopted plans, programs, and budgets. It should not be expected that the occurrence of development will result in the immediate installation of public street improvements by the public sector unless those improvements are scheduled and funded in accordance with public policies and programs.

In lieu of required street construction, ~~and subject to approval by the Town Board of Commissioners,~~ a developer may provide the Town with funds to use for the construction of roads to serve the occupants, residents, or invitees of the subdivision or development, and these funds may be used for roads which serve more than one subdivision or development within the area. All funds received by the Town pursuant to this provision shall be used only for development of roads, including design, land acquisition, and construction. The Town may undertake these activities in conjunction with the Department of Transportation under an agreement between the Town and the Department of Transportation. The amount of funds the developer pays in lieu of required street construction ~~shall be based on the trips generated from the subdivision or development.~~ A combination of partial payment of funds and partial dedication of constructed streets may be permitted when the Town Board determines that a combination is in the best interests of the citizens of the area to be served

Commented [ES34]: Only partial dedication and partial construction requires town board approval.

Commented [ES35]: We still need a formula for this calculation.

8.115 RESPONSIBILITY FOR STATE ROADS

No dedication or reservation of right-of-way for a new street or highway within a corridor for a street or highway on a plan established and adopted pursuant to N.C.G.S. § 136-66.2 for a street or highway that is included in the Department of Transportation's "Transportation Improvement Program" will be required by the provisions of this ordinance unless and until the Town Manager has determined and certified in writing: (1) that the dedication or reservation does not result in the deprivation of a reasonable use of the original tract and (2) that the dedication or reservation is either reasonably related to the traffic generated by the proposed subdivision or use of the land remaining in the original tract, or the impact of the dedication or reservation is mitigated by measures provided in this ordinance. For these purposes the term 'original tract' will mean all contiguous land owned by the applicant. The ability of the applicant to transfer density credits attributable to the dedicated right-of-way to contiguous land owned by the applicant is deemed to be a measure which mitigates the impact of the dedication or reservation.

8.120 DRAINAGE

1. Storm drainage adequate to accommodate a 10-year storm must be provided throughout the subdivision by means of storm drainage pipe or properly graded channels or natural drainage. Where adequate storm drainage has been provided by means of approved storm drainage pipe, and the necessary easements to provide access to the drainage facilities, in accordance with the standards of the Town and the Town Engineering Department ~~have, and has~~ been dedicated and accepted or otherwise conveyed to the Town, the Town will assume the responsibility for maintenance of the drainage pipe. Where adequate storm drainage has been provided by means of properly graded channels or ditches, the maintenance thereof will remain the responsibility of the property owner and must be so noted on the final plat and on deeds for the affected lots.

2. In addition to drainage improvements as required by this section, the subdivider may provide for storm water detention to serve the entire subdivision as part of the drainage plan to be approved by Town Engineering Department. For the purposes of this subsection, the subdivision shall include the streets, sidewalks, driveways, rooftops, and other impervious surfaces proposed to be constructed upon completion of the subdivision.
3. Reserved.

8.130 CURB AND GUTTER

Curb and gutter is required on all arterial and collector streets and on all Town streets with the exception of alleys, lanes, and other rural street applications. Location and type of curb and gutter is determined through the design process outlined in Article 5 of the Zoning Ordinance. Standard curb and gutter is recommended for curb and gutter installations on all street types. However, valley (mountable) curb and gutter may be used in lieu of standard curb and gutter on collector streets; and on Town streets that serve less urban purposes, such as Residential Local and Collector streets. Standard curb and gutter is required where formal parking is used.

8.140 SIDEWALK

Sidewalk width should be established using the Design Process found in Article 5 of the Zoning Ordinance and in accordance with the Engineering Standards and Procedures Manual (ESAPM) or thoroughfare design process. In all cases, a minimum of a five (5) foot wide sidewalk is required on both sides of new or existing collector streets, on both sides of local streets except lanes, alleys, and on the developed side of Residential Local streets with Greenway/Belt. Installation of sidewalks is the responsibility of the developer. However, to reduce impervious cover and promote [Low Impact Development](#), sidewalks on one side of Town streets may be waived by the [Town](#) in the Rural Zoning District.

Sidewalks are required on both sides of new or existing arterial streets with installation by developer to meet the pedestrian access requirements of the development. Sidewalk construction may be waived [by the Town Board](#) when accessibility by pedestrians does not now exist and is not expected to exist in the future. Conservation Subdivisions are exempt from the requirement to construct or escrow funds for sidewalks or alternative pedestrian paths along existing arterials

Location. Approval of sidewalk construction plans must be obtained from the Town Engineering Department as part of the subdivision review process. Town Engineering will review and comment on the location of the required facilities at the time of plan review. Except in unusual circumstances, sidewalks may not be located less than [75](#) feet, but preferably 7-10 feet, from the back of the curb or [a minimum of 22' from the](#) edge of pavement when no curb and gutter is required. If existing public street right-of-way is not available, the developer will be required to construct the sidewalk outside the street right-of-way on a permanent easement. While in most instances a sidewalk will be placed parallel to and offset from the curb line, developers are encouraged and expected to meander sidewalks to preserve existing trees of significance. Adjustments may be made in the field to accommodate such circumstances. [Sidewalk location on NCDOT maintained state streets is governed by NCDOT requirements and guidelines where applicable.](#)

8.150 STREET TREES

The developer shall install street trees along all streets within a development and along the abutting side of streets forming the perimeter of the development. Street trees shall be placed between the sidewalk, if present, and the back of curb or back of ditch, when no curb and gutter is required. Street trees must be planted in accordance with the applicable standard found in the Engineering Standards and Procedures Manual (ESAPM) and NCDOT Guidelines. Large maturing trees should be planted 40' on center; small maturing trees should be planted 30' on center. Street tree plantings conceived to produce a clear vertical edge to a street or plaza may require denser spacing. The planting plan shall adhere to Article 7 of the Huntersville Zoning Ordinance. In Conservation Subdivisions where existing, mature trees are to be preserved as a condition of the conservation easement, the requirement for street tree planting shall be waived.

8.160 STREET LIGHTS

Street lighting will be installed in each new subdivision pursuant to a street lighting plan which shall be submitted to the Town for approval. This shall be the responsibility of the developer. Street lights compatible in height and scale with the streetscape are strongly recommended. Further,

1. Street lights shall, in all cases, use fully shielded fixtures except that decorative street light fixtures shall be designed with caps so that light does not shine upward at more than a 135-degree angle measured above straight down (three-quarters of the way between straight down and straight to the top) from the pole or mounting wall.
2. Fixtures with minimal across-road and "house side" waste shall be used, ~~especially in residential areas~~, taking into consideration the details of roadway geometry and width.
3. ~~Low pressure sodium lights are strongly encouraged.~~
- 4.3. A street lighting plan must be approved by the Town prior to Preliminary Plan or Commercial Site Plan approval.

8.170 STREET MARKERS AND BARRICADES

1. Standard street markers must be installed by the developer at one corner of all street intersections, including private streets, before any certificates of occupancy may be issued for buildings or residences along those streets. The design, material, location, and installation of the signs must be in accordance with standards specified in the Engineering Standards and Procedures Manual unless an alternative design is approved. Alternatives to the standard design for street markers may be submitted by the developer for consideration by the Town Board. If an alternative design is approved by the Town Board, responsibility for the installation, maintenance, and replacement of non-standard street markers remains with the developer and subsequently with the homeowners. If maintenance and replacement of non-standard street markers is not provided by the developer or homeowners, the Town shall install standard street markers as replacements are needed. All standard street markers will be maintained and replaced by the Town once initial installation has been completed and streets are accepted for maintenance.
2. Barricades must be installed at the end of all dead-end streets except cul-de-sac streets which have been improved with a permanent turnaround as required by this Ordinance. Design, material, and installation of the barricades must be in accordance with the Engineering Standards and Procedures Manual (ESAPM).

8.200 NO SERVICE UNLESS STREET ACCEPTED/APPROVED

No department, officer, agent, or employee of the Town will accept for maintenance, lay out, open, improve, grade, pave, or light any streets or authorize the laying of water mains, sewers, electrical service extensions or other facilities or utilities in any street within the Town unless:

1. Such street has been accepted or opened as, or has otherwise received the legal status of, a public street prior to the effective date of this ordinance; or
2. For any new street, such street corresponds in its location and lines with a street shown on an ~~approved final subdivision plat~~ preliminary subdivision plan, tentatively approved by the Town Board or Designated Administrative Agent; or
3. Such street has been accepted as a public street by a vote of a majority of all the members of the Town Board or by the State of North Carolina; or
4. ~~Such street has been accepted as a public street by the State of North Carolina; or~~
5. Such street is an approved private street built in conformance with the provisions of all applicable ordinances.

8.300 OTHER PUBLIC FACILITIES

Reserved.

8.400 MODIFICATION OF REQUIREMENTS; PERFORMANCE GURANTEE

1. In subdivisions adjoining already established streets that have been accepted for maintenance by the North Carolina Department of Transportation, the requirements of Section 8.000 will apply as hereinafter provided; those requirements that would necessitate the general removal and reconstruction of established permanent pavements will not be applicable; where the adjoining established street is a part of the North Carolina Department of Transportation's street system, the adjoining street must be improved in accordance with either the requirements of Section 8.000 and the requirements of the Town of Huntersville or the North Carolina Department of Transportation, whichever establishes the higher standard.
2. Plats for new lots fronting on already dedicated or established streets or roads that have not been accepted for maintenance by the Town Board or the North Carolina Department of Transportation or which have been accepted for maintenance by the North Carolina Department of Transportation, but have not been improved with a paved roadway, will be eligible for final approval when the requirements of Section 8.000 have been complied with as closely as may be reasonably required considering the existing condition of the road, the extent of area to be platted and the cost of required improvements in relation to the comparative benefits to accrue to the subdivider and the other owners of property on both sides of the street or road.
3. Where the improvements required by the Zoning Ordinance and Subdivision Ordinance (i.e. streets, alleys, improved open space, landscaping, drainage, etc.) have not been completed prior to the submission of the final subdivision plat for approval, the approval of the plat will be subject to the owner providing a performance guarantee in the form of a surety bond, irrevocable letter of credit, or other form of guarantee that provides equivalent security to a surety bond or letter of credit with the Town Manager or designated agent. The amount of the performance guarantee shall be in an amount determined by the Town Manager in consultation with the Town Engineer or their designee, and affected agencies such as the department of Environmental Health, sufficient to guarantee the installation of the required improvements, allowing credit for improvements completed prior to the submission of the final plat. The amount so determined shall not to exceed 125% of the reasonably estimated cost of completion of the required improvements at the time the guarantee is issued. For landscaping required by this ordinance, the developer shall provide a contractor's estimate for provision and installation of such landscaping, the estimate shall be reviewed for adequacy, and a performance guarantee sufficient to guarantee the provision and installation of required landscaping shall also be filed in the manner provided above. Upon completion of the improvements and the submission of 'as built' drawings, written notice thereof must be given by the subdivider to the Town Engineering/[Public Works](#) Departments and the Town of Huntersville Planning Department. The Engineering/[Public Works](#) Departments and Huntersville Planning Department will arrange for an inspection of the improvements. If the improvements are found satisfactory, the Town Manager will be notified who will, within 30 days of the date of such notification, authorize in writing the release of the performance guarantee, subject to the warranty requirement below.
4. Warranty. All improvements required by this ordinance shall be warranted against defects in workmanship and materials by the subdivider for a period of not less than one (1) year, but not more than two (2) years from the date of the filing of the final plat or the date of the completion of the improvement, whichever is later. The subdivider shall file with the Town Manager a warranty surety listing the Town as beneficiary in an amount of 15% of the estimated value of the warranted development-related improvements for the warranty period.

8.500 INSPECTION

1. Town Engineering/[Public Works](#) Departments must be notified two days in advance of the work to be started so that an authorized representative of the Town [Engineer or their designee](#) or other responsible agency may be assigned to make any and all necessary inspections of the work performed.
2. The inspector must be allowed access to all parts of the work and must be furnished with every reasonable facility to ascertain whether or not the work as performed is in compliance with the specifications.
3. No materials may be placed, nor any work performed except in the presence of the inspector without special permission of the appropriate agency. Such inspection, however, does not relieve the contractor from any obligation to perform all of the work strictly in accordance with the specifications.
4. In the case of any disputes arising as to the material furnished or the manner of performing the work, the inspector will have authority to reject materials or suspend work until the question or issue can be referred to and decided by the appropriate agency. The contractor must remove any work or material condemned as unsatisfactory by the inspector and must rebuild and replace the work or material to the standard required by the specifications, all at his or her own expense.

9.000 ENFORCEMENT

1. After the effective date of this ordinance, any person who, being the owner or the agent of the owner of any land located within the area of jurisdiction of this ordinance, subdivides land in violation of this ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this ordinance and recorded in the Office of the Register of Deeds of Mecklenburg County shall result in the assessment of a civil penalty of \$500.00 per offense and may result in other enforcement actions as allowed by law. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from this penalty. The Town of Huntersville through the Town Attorney may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision regulation. All administrative actions relating to such land, including the issuance of any grading, construction, building, or occupancy permit will be suspended. This ordinance will not affect the sale or transfer of any land, a plat of which was recorded prior to the effective date of this ordinance. No penalties shall be assessed until the person alleged to be in violation has been notified in writing of the violation by registered or certified mail, return receipt requested, or by other means which are reasonably calculated to give actual notice. The notice shall describe the nature of the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in assessment of a civil penalty or other enforcement action as allowed by law. Each day's continuing violation shall be a separate and distinct offense.
2. In order to properly enforce the provisions of the subdivision regulations as stated in this ordinance prior to the beginning of any construction, reconstruction, use, or alteration of any land, building, or structure, the appropriate permit must be obtained from Mecklenburg County and the Town of Huntersville. No permit will be issued unless there has been a determination made that the proposed use, building, or structure complies with the requirements of this ordinance. Building permits required pursuant to [N.C.G.S. § 160D-1110](#) may be denied for lots that have been illegally subdivided. In addition to other remedies, the Town may institute any appropriate action or proceedings to prevent the

unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.

10.000 APPLICATION AND PROCESSING FEES

Fees for the submittal of preliminary and/or final subdivision plats shall be established, and from time to time revised, by the Board of Commissioners of the Town of Huntersville and shall be collected when a subdivision application is submitted. Fees shall be collected by the Town Manager, employees under his or her direction, or an Administrative Agent designated by the Board of Commissioners to administer the subdivision ordinance.

Fees for variances and appeals of administrative decisions or interpretations shall be in accordance with the fee schedule established by the Huntersville Board of Commissioners and shall be collected by the Town Manager or employees under his or her direction at the time a variance or appeal is submitted.

SECTION 2

That this ordinance shall become effective November 1, 1989.

TA 22-05 ZONING ORDINANCE AMENDMENTS (ATTACHMENT 2)

Section 3.2.1(d)(2)(h) and (i)

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h. In order to preserve the low intensity development character found in the Rural zoning district, along existing state-maintained roads and future thoroughfares a visually opaque landscaped buffer of native vegetation at least 80 feet in width shall be required for major subdivisions unless a more restrictive buffer is established elsewhere in these regulations. ~~The Board of Commissioners may allow modification to the buffer width when special site conditions exist such as topography or the site has multiple road frontages.~~ The buffer shall be in common area and shall be counted towards meeting open space requirements.

i. In major residential subdivisions, a landscaped median at least 20' in width shall be required at all entrances into the subdivision. ~~Modification to this standard may be allowed by the Board of Commissioners in the interest of traffic safety.~~

Section 3.2.1(e)(11)

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- 1) A Farmhouse Cluster requires an approved **Farmhouse Cluster subdivision plan**, according to the requirements of the Huntersville Subdivision Ordinance including approval by ~~the Town Planning Board Staff~~ and shall meet all other requirements for review and approval, which may include preliminary plan approval prior to approval of a final plat.

Section 3.2.21(e)(11)

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- 1) A Farmhouse Cluster requires an approved **Farmhouse Cluster subdivision plan**, according to the requirements of the Huntersville Subdivision Ordinance including approval by ~~the Town Planning Board Staff~~ and shall meet all other requirements for review and approval, which may include preliminary plan approval prior to approval of a final plat.

Section 3.2.2(d)(2)(h) and (i)

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h. In order to preserve the low intensity development character found in the Transitional Residential zoning district, along existing state-maintained roads and future thoroughfares a visually opaque landscaped buffer of native vegetation at least 80 feet in width shall be required for major subdivisions unless a more restrictive buffer is established elsewhere in these regulations. ~~The Board of Commissioners may allow modification to the buffer width when special site conditions exist such as topography or the site has multiple road frontages.~~ The buffer shall be in common area and shall be counted towards meeting open space requirements.

i. In major residential subdivisions, a landscaped median at least 20' in width shall be required at all entrances into the subdivision. ~~Modification to this standard may be allowed by the Board of Commissioners in the interest of traffic safety~~

3.2.3 GENERAL RESIDENTIAL DISTRICT (GR)

Intent: The General Residential District is coded to permit the completion and conformity of conventional residential subdivisions already existing or approved in sketch plan form ~~by the Town Planning Staff~~ Huntersville ~~Board of Commissioners~~ prior to the effective date of these regulations ~~or by the Charlotte-Mecklenburg Planning~~

~~Commission under the prior jurisdiction of Mecklenburg County.~~ The application of the General Residential District is not intended for development projects in the Huntersville jurisdiction which are initiated after the effective date of this ordinance (November 19, 1996).

Section 3.2.13(d)(5)

5) A master subdivision sketch plan shall be provided with any application for development approval. It shall comply with the standards of this district and with the most detailed development policies and/or plans adopted by the Town Board for the station's catchment area. The master plan shall include a topographic survey and shall show the location and hierarchy of streets and public open spaces, location of residential, commercial, and civic building lots, street sections and/or plans, approximate unit count, square footage on non-residential buildings and uses, proposed building heights, an outline of any additional regulatory intentions, phasing, and any other information, including building elevations, which may be required to evaluate the interior pedestrian environment and conditions at project edges. Phasing of development to provide for future horizontal and vertical intensification to meet the standards of this section is permitted. ~~Notwithstanding the provisions of Section 6.320 of the Huntersville Subdivision Ordinance,~~ Approval of the master sketch plan will be administrative.

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Section 3.2.14(d)(3)

3) A master subdivision sketch plan in compliance with this district shall be provided with any application for development approval. It shall comply with the standards of this district and with the most detailed development policies and/or plans adopted by the Town Board for the station's catchment area. The master plan shall include a topographic survey and shall show the location and hierarchy of streets and public open spaces, location of residential, commercial, and civic building lots, street sections and/or plans, approximate square footage of office/commercial buildings and uses, residential unit count, proposed building heights, an outline of any additional regulatory intentions, phasing, and any other information, including building elevations, which may be required to evaluate the interior pedestrian environment and conditions at project edges. Phasing of development to provide for future horizontal and vertical intensification to meet the standards of this section is permitted. ~~Notwithstanding the provisions of Section 6.320 of the Huntersville Subdivision Ordinance,~~ Approval of the master sketch plan will be administrative.

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Section 5.2

5.2 Blocks, Intersections, and Traffic Calming

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a. Blocks

Street blocks defined by public streets are the foundation of traditional neighborhoods. Block dimensions are as follows:

New Development Type	Linear feet as measured between cross streets
Urban Conditions	250 to 500 feet
Major Residential Subdivisions	Not to exceed 800 feet
Large Lot Subdivisions/Industrial Areas	Not to exceed 1500 feet

The block pattern should continue to establish the development pattern at the project edge. Where a longer block will reduce the number of railroad grade crossings, major stream crossings, or where longer blocks will result in an arrangement of street connections, lots, and public space ~~that comply more consistent~~ with this Article and Article 7 of these regulations, ~~the Town Planning Board Staff may authorize up to 30% greater block lengths at the time of subdivision sketch plan review and approval. Any block length extension beyond 30% shall be processed as a subdivision variance in accordance with 4.000 of the Subdivision Ordinance.~~

Commented [JS1]: This language is changed to remove subjectivity.

Section 7.5.3

⁴Except where street connectivity between subdivisions is required by block length standards found in Article 5, appropriate for high quality neighborhood design, the Town Board may reduce or waive the required buffer yard.

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Commented [JS2]: Change reflects current standards and is less subjective.

Section 8.15

- .1 Minimum Setbacks Along Thoroughfares. The build-to or set back line for any lot which abuts a thoroughfare classified on the Comprehensive Thoroughfare Plan shall be measured from the proposed right-of-way line, if existing right-of-way is of lesser width. The Proposed Right-Of-Way Line established for each classification of thoroughfare is as follows:

<u>Thoroughfare Classification</u>	<u>Feet</u>
Freeway or Expressway	250-350
Boulevard	<u>100-200</u>
Other Major Thoroughfare	100- 150 - <u>120</u>
<u>Minor Thoroughfare</u>	<u>70-100</u>
Town Streets (Collector, Local, Alley)	Varies according to the standards of Article 5 of the Huntersville Zoning Ordinance and the Town's Engineering Standards and Procedures Manual

Commented [JS3]: Changes to match Comprehensive Transportation Plan and 7.110 of Subdivision Ordinance

8.25.3(c)

c) A site-specific development plan amended by action of the Board of Commissioners subsequent to adoption of this Section shall comply, in its amended form, with the S.W.I.M. buffer requirements, however uses and structures previously approved for construction in a buffer may remain.

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8.25.9(a)

a) Buffer boundaries including all buffer zones must be clearly delineated on all site-specific plans for Board of Commissioner approval, on all construction plans, including grading and clearing plans, erosion and sediment control plans, and site plans.

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Section 11.3.3

3. Standards for Granting an Administrative Waiver

a) Purpose and Intent

Unless otherwise provided in the Zoning Ordinance, the Zoning Administrator (which term shall include an administrative official designated by the Town Manager to perform these functions) is authorized to grant an administrative waiver of minor deviations from measurable and quantifiable standards of this ordinance subject to the following limitations:

Commented [JS4]: To acknowledge the 30% block length provision in Section 5.2

- 1) The standard for which the waiver can be granted must be a quantifiable and/or measurable standard set forth in the ordinance. Such standards may include, but are not necessarily limited to, height requirements and limitation, yard requirements, parking requirements, screening or buffer requirements, planting requirements, ratio requirements, density requirements, spacing requirements, signage requirements and other similar measurable and quantifiable standards.
- 2) The Zoning Administrator shall grant such waiver only after the requesting party has demonstrated that such minor deviation was a result of an unintended error or unique conditions of the property, does not and will not violated the spirit and harmony of the ordinance, and does not and will not adversely affect the rights of other property owners in any material manner.
- 3) The minor administrative waiver may not deviate by more than three percent (3%) any of the standards for which the waiver is given.

Construction. The authority given to the Zoning Administrator to grant such waivers shall be construed to be permissive and not mandatory and the Zoning Administrator may decline to make such waiver, and instead, require that the applicant seek a variance from the Board of Adjustment. The Zoning Administrator may not grant any waiver affecting the use or zoning classification; however, this shall not be construed as limiting the zoning Administrator's duties and rights under the ordinance, and whose decisions are appealable to the Board of Adjustment.

Section 11.4.2(d)

b) d) Powers and Duties.

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- 1) The Planning Board shall serve as the advisory board on all requests for changes in the zoning regulations and ordinances of the Town of Huntersville (the "Town"). As such, and pursuant to any authorities set forth in the Zoning Ordinance, the Planning Board shall hear all requests for zoning changes or other zoning action and shall, upon such hearings, make a recommendation to the Town Board as to any requested changes or action regarding this ordinance. Hearings on zoning petitions may, by joint decision of the Town Board and the Planning Board, be held at joint meetings, or may be held separately. The Planning Board is hereby empowered to set procedures for the filing of zoning petitions so long as said procedures do not conflict with or are not in derogation of the then existing regulations and ordinances of the Town.
- ~~2) The Planning Board shall review and make recommendations on applications for approval of subdivisions pursuant to the Subdivision Ordinance, and shall make such recommendations as may be permitted by said subdivision ordinance and as the Planning Board deems to be in the best interest of the Town.~~
- 3) The Planning Board is empowered to make recommendations to the Town Board or other governmental agencies consistent with the Planning Board's charged obligation to provide for proper planning for the future growth of the Town and its environs.

Section 14.2.3

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14.2.3 TIA Submission and Completion Requirement

Once the Town has made a Determination of Need for a TIA, the applicant may proceed with the TIA scoping. Once the TIA scoping is complete, the applicant may proceed with the TIA, in accordance with the terms of the most recent version of the *Town of Huntersville TIA Process and Procedures Manual*, as approved by the Town Engineer and all applicable Zoning Ordinance and Subdivision Ordinance requirements. The draft TIA shall be submitted to Town staff 30 days prior to ~~either the Town Board Public Hearing (for rezoning cases) or the Planning Board Meeting (subdivisions)~~ or as provided in the Subdivision Ordinance. Resubmittals of TIAs shall be submitted a minimum of 20 business days prior to the scheduled Town Board final action. The final sealed TIA shall be completed and accepted by Town staff prior to final action by the Town Board or permit issuing authority.

Section 14.3

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14.3 Impact Study Area

The impact study area designates the intersections for a TIA study where potential increases in traffic from the development may cause degradation of levels of service. Where traffic from the proposed development is anticipated to increase a signalized or major unsignalized intersection single approach by 40 vehicles in a peak hour or increase the total of all approaches by 70 vehicles in a peak hour, the intersection shall be studied in the TIA. Should an intersection be considered at its ultimate buildout laneage or configuration or within the delivery portion of the current NCDOT State Transportation Investment Program (STIP) prior to final action taken by the Town Board ~~or permit issuing authority~~, the Town Engineer may waive the requirement to include the intersection for study in the TIA.

MATT JONES APRIL COMMENTS With Staff Response

1.200 PURPOSE

The provisions of this ordinance are adopted pursuant to the authority conferred by Section 160D-801 through Section 160D-808 of the General Statutes of North Carolina for the purpose of providing for the orderly development of the Town of Huntersville, North Carolina and its environs by regulating the subdivision of land. The regulations contained herein are intended to coordinate proposed development with existing development and with officially adopted plans for future development of the town; to coordinate transportation networks and utilities within subdivisions with existing or planned streets or with public facilities; to secure or protect adequate rights-of-way and easements for street or utility purposes; to secure adequate spaces for recreation and school sites; to provide for the distribution of population and traffic in a manner which shall avoid congestion and overcrowding; to protect and enhance environmental quality; to ensure the proper legal description, monumentation, and recording of subdivided land; and to create conditions that substantially promote public health, safety, convenience, and the general welfare.

Commented [MJ3]: Does the Subdivision Ordinance as proposed comply with the Jones v Davis case and regulate only the division of land not the use?

Subdivision ordinance does not regulate use; only division of land. Coordinates with Zoning Ordinance where use is regulated.

Subdivision, Conservation

A tract of land 40 acres or more that is subdivided into single family building lots at a gross density not exceeding 1 dwelling unit per 20 acres, where no new streets are created through the development process and use of the land is restricted by an irrevocable conservation easement held by a conservation organization authorized by N.C.G.S. § 121-35(1) et seq.

Commented [MJ5]: Does this imply a regulation of use?

No, coordinates with Zoning Ordinance

Subdivision, Limited.

A subdivision that is not otherwise exempt from the provisions of this ordinance and where the tract or parcel of land retained by the owner submitting the land for subdivision approval is in excess of ten (10) acres. For such subdivisions the owner shall be required to plat only the parcel(s) to be transferred or

3. To accept and file petitions for variances.
4. To accept and file notices of appeals within ten (10) days of the day an administrative interpretation or decision is issued.

Do not recommend. HOAB is Town of Huntersville provision

3.500 HUNTERSVILLE ORDINANCE ADVISORY BOARD ("HOAB")

In addition to any authority granted to the HOAB by its bylaws and other ordinances of the Town of Huntersville, the HOAB will have the following powers and duties to be carried out in accordance with these regulations.

1. To make advisory recommendations on proposed amendments to the text of these regulations; and to propose amendments to change the text of these regulations.

Commented [MJ11]: To make consistent with bylaws

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5.000 AMENDMENTS

The Planning Staff may from time to time, and at the request of the Huntersville Town Board, ~~or~~ Planning Board ~~of~~ Huntersville Ordinance Advisory Board shall prepare certain amendments to the text of the ~~S~~ubdivision ~~O~~rdinance to correct errors, update or modify the requirements, or otherwise modify the operation of the ordinance in regulating the subdivision of land.

Amendments to this ordinance may only be enacted pursuant to public notice and public hearing on the proposed amendments. Notice of such public hearing shall be published once per week for two successive weeks in a newspaper of general circulation in the Town of Huntersville. The notice shall be first published not less than ten (10) days nor more than twenty-five (25) days prior to the date fixed for the hearing. The notice shall indicate the date, time, and place of the hearing and shall include a statement of the substance of the proposed amendment.

All text amendments must be referred to the ~~Huntersville Ordinance Advisory Board and the~~ Planning Board for a recommendation prior to final action by the Town Board. If no written report is received from the Planning Board within 30 days of referral of the amendment to that board, the governing board may act on the amendment without the Planning Board report.

Commented [MJ15]: To be consistent with HOAB bylaws

Agreed

Do not recommend; PB recommendation required by Statute; HOAB Huntersville option

6.000 THE SUBDIVISION PROCESS

6.100 COMPLIANCE REQUIRED

714. Easements.

Easements established to the width and in the locations required by the Consulting Engineer, Utility Department, or Town Engineering Department, ~~shall~~ould be provided for open or piped storm drainage, sanitary sewers, water lines, and other utilities. This requirement applies to such lines installed at the time of the development of the subdivision, and to easements for such lines which may reasonably be expected to be installed in the future.

Commented [MJ22]: Could this create a due process issue if there is an offsite easement required to be obtained from a third party? See Seattle Title Trust Co. vs Roberge

Easements required internal to the development. Any external easements needed for development is up to property owner to acquire.

815. Proposed Wwater and Ssewerage Ssystem.

As the subdivision progresses, the subdivision plan shall contain information as to the availability and method of

6.850 -TRAFFIC IMPACT ANALYSIS

When~~re~~ required, a Traffic Impact Analysis shall be provided by the applicant, in accordance with Article 14 of the Town Zoning Ordinance, which are incorporated by this reference.

7.000 SUBDIVISION DEVELOPMENT REQUIREMENTS.

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Commented [MJ30]: What enabling authority are we using? Do we have authority for exactions for by right plans other than fee in lieu? See Buckland vs Town of Haw River, TAC Stafford vs Town of Mooresville. Also need a policy for right of way acquisition so as to not create a due process violation see Seattle Title Trust Co. vs Roberge and High Rock Lake Partners vs NCDOT. Also need to comply with constitutional limits, most importantly rough proportionally, see Nollan, Dolan and Koontz cases.

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Authority by 160D and per Huntersville Charter

31

~~consistent with Articles 7 and 8 of the Huntersville Zoning Ordinance, no lot or lots may be created~~
greater block lengths may be authorized.

7.200 DESIGN STANDARDS FOR LOTS

7.210 FRONTAGE ON STREET

Each lot must have frontage on a street, but with the following exceptions:

1. ~~1.~~ Any lot for which a residential use has been legally established prior to the effective date of this ordinance in accordance with provisions of ~~Section~~Article 8.1.1 of the Zoning Ordinance permitting establishment of use on a lot served by a private and exclusive recorded easement of at least 15 feet in width connecting said lot to a public street, may be used as if it abutted a street, provided that it is served by a driveway located on said easement.
2. ~~2.~~ Any lot for which a non-residential use has been legally established prior to the effective date of this ordinance in accordance with provisions permitting establishment of use on a lot served by a

Commented [MJ33]: This may have already been addressed. Article 8.1 of ZO says public street.

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Commented [MJ34]: Related to this section and Article 8.1.1 of the ZO. Need to allow lots that front on private streets to be created and built on that have viable access for emergency services etc.. Otherwise could the property have no practical use and be considered a taking? See Responsible Citizens vs City of Asheville and Helms vs Charlotte. "if the application of a zoning ordinance has the effect of completely depriving an owner of the beneficial use of his property by precluding all practical uses or the only use to which it is reasonably adapted, the ordinance is invalid"

Commented [ES35]: Should this include a specific reference to 8.1.2 of the ZO?

33

Zoning Ord. 11.5.5 allows use of nonconforming lot that can't otherwise meet regulations

Good point; suggests
"responsible party"

adequacy of the maintenance plan for the BMPs, including the necessary financing to support the proposed maintenance practices. -Charlotte-Mecklenburg Storm Water Services will inspect the structural BMPs and verify the effectiveness of the maintenance plan; if both are found to be satisfactory, the department will notify the owner within 30 days of the date of notice.

13. MAINTENANCE REQUIREMENTS FOR STRUCTURAL BMPs – CIVIL PENALTIES.

Maintenance of all structural BMPs will be the responsibility of the property owner or his designee. Any person who fails to maintain the required BMPs in accordance with the approved maintenance plan will be subject to a civil penalty of not more than \$5,000. Each day that the violation continues shall constitute a separate violation. No penalties shall be assessed until the person alleged to be in violation has been notified in writing of the violation by registered or certified mail, return receipt requested, or by other means which are reasonably calculated to give actual notice. The notice shall describe the nature of the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in assessment of a civil penalty or other enforcement action.

Commented [MJ44]: HOAs end up owning most of these. Should this say property owner?

and the necessary easements to provide access to the drainage facilities; in accordance with the standards of the Town and the Town Engineering Department ~~have, and has~~ been dedicated and accepted or otherwise conveyed to the Town, the Town will assume the responsibility for maintenance of the drainage pipe. Where adequate storm drainage has been provided by means of properly graded channels or ditches, the maintenance thereof will remain the responsibility of the property owner and must be so noted on the final plat and on deeds for the affected lots.

2. In addition to drainage improvements as required by this section, the subdivider may provide for storm water detention to serve the entire subdivision as part of the drainage plan to be approved by Town Engineering Department. For the purposes of this subsection, the subdivision shall include the streets, sidewalks, driveways, rooftops, and other impervious surfaces proposed to be constructed upon completion of the subdivision.
3. Reserved.

8.130 CURB AND GUTTER

Curb and gutter is required on all arterial and collector streets and on all Town streets with the exception of alleys, lanes, and other rural street applications. Location and type of curb and gutter is determined through the design process outlined in Article 5 of the Zoning Ordinance. Standard curb and gutter is recommended for curb and gutter installations on all street types. However, valley (mountable) curb and gutter may be used in lieu of standard curb and gutter on collector streets; and on Town streets that serve less urban purposes, such as Residential Local and Collector streets. Standard curb and gutter is required where formal parking is used.

curb & gutter and sidewalks
only required within
subdivision & where
appropriate along adjacent
streets

Commented [MJ48]: Related to Section 8.130 and 8.140 can this be required for by right development for streets abutting subdivision or outside of the development? See Buckland vs Town of Haw River. Alternatively should there be language tying back to fee in lieu option?

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the street right-of-way on a permanent easement. While in most instances a sidewalk will be placed parallel to and offset from the curb line, developers are encouraged and expected to meander sidewalks to preserve existing trees of significance. Adjustments may be made in the field to accommodate such circumstances. Sidewalk location on NCDOT maintained state streets is governed by NCDOT requirements and guidelines where applicable.

8.150 STREET TREES

The developer shall install street trees along all streets within a development and along the abutting side of streets forming the perimeter of the development. Street trees shall be placed between the sidewalk, if present, and the back of curb or back of ditch, when no curb and gutter is required. Street

160D authority unless statute
amended to say otherwise.

Commented [MJ49]: What authority are we relying on? If local act SL 1997-420, single family and duplex development needs to be excluded.

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Legal Standing

- ◆ Parties with standing include:
 - ◆ Applicant
 - ◆ Owner
 - ◆ Persons who will suffer special damages
 - Special damages are a factual determination that is determined on a case-by-case basis
 - Must be distinct from damages to public at large and be proven with specificity
 - ◆ HOA IF at least one member of the HOA has individual standing AND the association was not formed in response to the dispute
 - ◆ An attorney may represent any party with standing and act on their behalf with the same legal rights

Must have standing to act as a party in a quasi-judicial hearing

How to Establish Special Damages

- ◆ The Board decides who does and does not have standing.
- ◆ The individual must offer credible evidence to establish standing based on special damages.
- ◆ Vague, general allegations of harm is not enough.
- ◆ There is no set test to prove special damages in North Carolina, but different factors must be weighed on a case-by-case basis.
- ◆ Proximity in and of itself is typically insufficient to grant standing, but bears some weight on the issue of special damages.
- ◆ Factors that may be considered when determining if special damages exist include:
 - ◆ Proximity
 - ◆ Decrease in property value
 - ◆ Additional adverse impacts such as traffic, security, litter, etc.

Difference Between Witnesses and Parties with Standing

- ◆ A person with standing may:
 - ◆ Act as a party in a quasi-judicial hearing which allows them to:
 - ◆ Call witnesses
 - ◆ Cross-examine witnesses
 - ◆ Object to evidence
 - ◆ Offer rebuttal
 - ◆ Challenge the impartiality of a decision-maker
 - ◆ Appeal a staff decision
 - ◆ Appeal a quasi-judicial decision to superior court
- ◆ A witness may only provide competent, relevant, and substantial evidence on the matter, but may not perform any other function allowed by a party with standing.
- ◆ A party with standing or the governing board may call a witness.
- ◆ The board is not required to hear from individuals without standing.

2018 Survey Report: Adoption and Administration of Local Development Regulations, Conditional Zoning, and Subdivision Administration

David W. Owens

Table B19. Use of Discretionary Standards in Subdivision Regulations

Population size	Total respondents	Only objective standards (%)	Discretionary standards also included (%)
Municipalities	206	75	25
1–999	35	74	26
1000–9999	105	74	26
10,000–24,999	35	69	31
25,000+	31	84	16
Counties	69	65	35
1000–24,999	16	69	31
25,000+	53	64	36
All jurisdictions	275	72	28

Subdivision Process For Neighboring Cities/Towns

JURISDICTION	SKETCH PLAN	Neighborhood Meeting	Staff Approval	Planning Board Recommend	Town Board Decision
Huntersville CURRENT	Yes	Yes	No; Recommendation	Yes	Yes
Charlotte	Recommended	No	Yes	No	No (Preliminary Plan approved by staff)
Mint Hill	Yes	No	Yes	No	No
Pineville	Yes	No	Yes, if under 100 lots	No	Yes, conditional approval if 100+ lots
Matthews	Yes	No	Yes	No	No
Davidson	Yes (called Master Plan)	Yes, if required by Planning Director	Yes	Optional, comment only	No
Cornelius	No	No	No	No	Over 4 lots CD rezoning required
City of Concord	No	No	No	No	No (Preliminary Plan approved by staff)