



**DATE:** May 18, 2021

**CASE:** TA-04-21 Text Amendment to Address Requirements of Chapter 160D of the North Carolina General Statutes

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**BACKGROUND**

As the Commission is aware, the staff has been in the process of revising the Concord Development Ordinance (CDO) to respond to the recommendations contained in the 2030 Land Use Plan. Separate from those changes, the City is required to update the CDO to reflect changes in the General Statutes as specified in Chapter 160D. In addition to those changes, the City is required to adopt certain procedures and take certain actions. This memorandum will serve to enumerate those changes. The vast majority of these changes only refer to newly numbered sections of the statutes and have no impact. There are several new items which will be the main focus of this summary. Additionally, Planning and Legal have worked on several procedural items, which we feel will correct some inefficiencies. The summary will note those items that are separate from the 160D changes.

We have also identified and researched each internal cross-reference within the CDO and corrected the ones that were not valid.

160D was a result of the consolidation of the County (Chapter 153A) and the City/Town (Chapter 160A) portions of the General Statutes in order to create a uniform and consistent set of statutes with common development regulations. The bill was approved in 2019 after several years of work with the NC Bar Association and the development community. The General Assembly originally set an adoption deadline of January 21, 2021 but due to the pandemic, the deadline was extended to July 1, 2021. The staff has relied upon guidance provided by the University of North Carolina School of Government (SOG) relative to recommended language and statutory references.

The entire CDO with strikethrough and addition is available in the event that you wish to view it. For purposes of efficiency, we are including an abbreviated version of the additions and major changes with this report. The Summary details the changes by chapter, but does not cite each amended reference to the new 160D chapter, or each internal cross section. Additionally, this rewrite includes what is principally a reformatting of Article 5 (Subdivision Plats, Site Plans and Construction Plans). This reformatting corrects outdated procedures, eliminates redundancies, makes the entire Article more efficient, and the does not impose new requirements.

In order to clarify, the staff has been working on other changes that are not ready for hearing at this point. These changes include 1) revised townhome regulations, 2) park and greenway dedication/reservation requirements and 3) revision of the Planned Residential Development (PRD) requirements to match the format of the recently adopted

Planned Unit Development (PUD) district. For expediency, we are proposing the Commission consider only the 160D related changes to the impacted Articles (7, 9 and 10) and we will bring those back in the upcoming months after they are posted for public comment and discussion.

## **ARTIICLE 1 – GENERAL PROVISIONS**

**1.1.5 – Authority:** We are required to clarify our responsibilities regarding planning and zoning regulation and enforcements, so this paragraph has been amended to include language recommended by the School of Government.

**1.1.9 – Fees:** We have added required language that fees must be reasonable and used for their intended purpose.

**1.2. – Consistency with Comprehensive Plan:** Required language has been added to confirm that subsets of the LUP (area plans, downtown plans, corridor plans, etc.) shall also be considered when adopting zoning amendments. We have listed the “Open Space and Connectivity Analysis (or OSCA) as one of the adopted plans.

**1.2.4 Amendments to Land Use Plan:** One feature of recent legislation is that approval of a zoning amendment in contradiction to the LUP would result in amendment of the LUP map. However, that responsibility rested with City Council, as our special legislation allows approval of zoning amendments by Planning Commission but is silent on changing the LUP. Upon discussions with Legal, and upon review of the new statutes, we are of the opinion that the authority exists for Planning Commission approval of these concurrent applications (with the  $\frac{3}{4}$  approval requirement of course). An amendment not concurrent with a zoning change (such as the addition of a goal or policy or change to the text) would require final approval by Council. Portions of this section have also been rewritten to simplify and eliminate redundancies. We feel that this change will greatly improve efficiency when considering these concurrent applications.

**1.5.4 Civil Remedies and Enforcement Powers, 1.5.5 Penalties for Violation and 1.5.8 Enforcement Procedures:** We have added a clarification per 160D requirements that revocation requires the same process as granting approval. For example, revoking a special use permit would be the authority of the Planning Commission since they approved it, or the Board of Adjustment if they approved it on appeal. This requirement was already in the CDO, but we have added clarifying language. Additionally, language has been added to clarify other remedies, such as criminal prosecution. Notices of violation now have to be delivered to both tenant and owner if they are different, and may be posted onsite. Previously, the City was required to only notice the owner. All three of these sections have general language recommended by SOG.

**1.6 General Procedural Requirements:** This section adds a requirement that notice shall be given to “other parties that have expressed in interest in the project” in addition to adjacent property owners. New language also details the posted notice requirement (between 10 and 25 days prior to the hearing) that will coincide with the mail notice requirement, and that continued meetings are not required to be re-noticed if 1) continued to a date certain, or 2) as a result of a lack of quorum when the hearing would be continued to the next meeting

## **ARTICLE 2 – ADMINSTRATIVE AGENCIES**

**2.1 Development Services Department and Administrator:** Much of this section involves the amendment of the former name of the department (Development Services) to the current name (Planning and Neighborhood Development).

**2.2 Board of Adjustment:** This section includes a new requirement that Board of Adjustment rules and procedures be posted to the City’s website. There is also a new requirement that the City solicit applications for members/

**2.3 Planning and Zoning Commission:** This section also contains a requirement that the rules and procedures be posted to the City’s website, and that membership shall be solicited.

**2.4 City Council:** This section clarifies that Council can approve performance guarantees and removes the section giving Council authority to approve major subdivisions and site plans (because those are now administrative.)

**2.5 Historic Preservation Commission:** The new statute requires that the term “guideline” be replaced with “standards” as it relates to Historic Preservation. The new language also clarifies that proportional extraterritorial representation be on the Commission in the event that any landmarks are present in the extraterritorial jurisdiction (ETJ). As in the case with ZBOA and P&Z, it is required that rules of procedure be posted on the City’s website.

**2.6 City Staff – Development Review Committee:** This section also states that DRC rules of procedure also be posted to the website. Additionally, a section that gives DRC administrative approval of minor plats has been deleted, since all plats are now administrative anyway.

## **ARTICLE 3 – ZONING AMENDMENTS AND HEARING PROCEDURES**

**3.2 Changes to the Official Zoning Map:** A clarification has been added that a conditional district zoning amendment may be initiated by a person with a property interest or by a person with a contract to purchase the property (in addition to the owner). Section 3.2.6 includes a clarification that comprehensive plans that are cited in zoning decisions include subsets (such as area plans, greenway plans, etc.), and that the statements of reasonableness and consistency may be a combined statement if desired. A new requirement is included to allow the minutes to substitute for a written statement of consistency provided that the commission is fully aware of, and considered the comprehensive plan in making their decision.

Section 3.2.9.E (conditional districts) is amended to state that 1) dedications and performance guarantees can be suggested and agreed upon by all parties and 2) that all conditions and development approvals should be in writing and protected from further edits. (this development approval language has been inserted numerous times within the CDO as a result of the 160D changes.) Based upon guidance from the SOG, we have also amended Section 3.2.9 (Rezoning to a Conditional Zoning District) relative to requests for administrative amendment. The CDO allows staff to approve minor deviations which may include up to five (5) or a total of 10 percent additional dwelling units. Based upon current case law, it

is recommended that no additional units be permissible on an administrative basis, so that provision has been deleted.

#### **ARTICLE 4 – ENVIRONMENTAL/LAND-DISTURBING ACTIVITIES**

This article has only two minimal changes. One changes the term “special exception” to “special use permit” (the current terminology) and clarifies that the Administrator may invoke stop-work orders on illegal or dangerous development within the flood hazard areas.

#### **ARTICLE 5 – SUBDIVISION PLATS, SITE PLANS, CONSTRUCTION PLANS**

As previously mentioned, this section includes a reformatting and “clean-up” to simplify the Article, along with the 160D changes and the internal cross-references. Throughout this Article, staff has made corrections that the approval of plats are administrative and are not subject to approval by either Planning Commission or City Council.

**Section 5.1.1 Subdivision Development and Table 5.1 Types of Subdivisions and Their Approving Body:** This table has been amended to reflect that subdivision plats are administrative and not subject to either Council or P&Z approval, and to indicate that offers of dedication are approved by Council, along with infrastructure acceptance.

**Section 5.2.5 Approval Process:** This section has been amended to reflect the current, modernized application process which requires digital submission of the proposed plat into the City’s Plan Review portal. The requirement for submission of a mylar of the preliminary plat, after approval, has been deleted. In accordance with 160D, the procedure for appeal of a denied plat has been added, which is a superior court appeal within thirty (30) days of denial.

**Section 5.2.6 Allowable Activities with a Valid, Approved Preliminary Subdivision Plat and Section 5.2.7 Revisions of Preliminary Plat After Approval:** These two sections have been amended to remove redundant language that is contained elsewhere in the CDO, and to remove references that refer to approvals by the Planning Commission and City Council.

**Section 5.3 Final Plats:** This section has been revised to include references to the digital submission requirements, as well as to the potential future electronic recording of final plats. The section also includes minor “housekeeping” revisions to the required certificates as well as including the appeal process as specified in 160D.

**Section 5.4 Site Plan-Controlled Development:** Staff comprehensively revised this section as it was somewhat confusing to applicants. It has been revised to clarify requirements from the standard site plan section and those from conditional district zonings and special use permits (as site plans prepared in accordance with Article 5 are required for those approvals.) The section includes references to the recently adopted Traffic Impact Analysis (TIA) standards as a requirement for submission. The section also includes a new provision that states that in the event that the site plan submitted and approved with a conditional district zoning is not sufficiently detailed, the Planning and Zoning Commission or Council may specify that the property be subject to a re-hearing at the consent of the applicant.

#### **ARTICLE 6 – PERMITS AND APPROVAL PROCESSES**

**6.1 Administrative Permits:** Changes have been made to this section to require that the City make decisions on all permits in writing, and in a format that is protected from further edits.

**6.2 Special Use Permits:** This section includes a clarifier that conditions must be agreed to in writing by the petitioner and that the Commission may not impose a condition that is not authorized by the statutes. An increase to density or a change of use are cited as examples of “major changes.”

**6.3 Permits Issued by the Zoning Board of Adjustment:** In the hearing procedure requirements, a clarifier has been added to state that all parties with standing shall have the right to fully participate in a quasi-judicial hearing. These rights include the ability to cross-examine witnesses, to object to witnesses and to make legal arguments. The section also reiterates that non-parties may present competent, material and substantial evidence that is not repetitive, and that opinion testimony from a lay person relative to technical matters (such as traffic or property values) shall not be considered to be competent. Note that these requirements are also applicable for Special Use Permits and other quasi-judicial decisions. These requirements have been in the statutes for several years, (and the City has followed this guidance) but the SOG recommends they be codified by the local governments.

## **ARTICLE 7 – BASE ZONING DISTRICTS**

**7.3 Zoning Map:** A statement has been added per SOG recommendation that current and prior versions of zoning maps be maintained in digital and/or paper format, and they must be available for public inspection.

**7.10.6 Approvals:** This section has been deleted – it references the obsolete Planning and Zoning Commission approval of all structures greater than 100,000 square feet. These approvals are now administrative.

## **ARTICLE 8 – USE REGULATIONS**

Changes to this article exclusively involve revisions to cross-references, most notably in the telecommunications and wireless facility sections.

## **ARTICLE 9 – SPECIAL PURPOSE AND OVERLAY DISTRICTS**

### **9.2 Planned Residential Development (PRD)**

As previously discussed, this section is intended to be rewritten in the very near future to encompass much of the same language from the PUD district. For the time being, the aesthetic requirements for single-family dwellings in sections 9.2.4 and 9.2.5 have been removed as those restrictions are no longer permissible outside of a Historic District.

### **9.3 Mixed Use Districts**

As with the PRD district, aesthetic restrictions relative to single family development have been deleted.

### **9.8 Historic Preservation Overlay (HPOD) Districts**

Language in this section referencing “special exception” has been amended to “special use permit.”

## **ARTICLE 10 – DEVELOPMENT AND DESIGN STANDARDS**

Note that again, this Section 10.5 of this Article is undergoing a revision to address greenway and park reservation/dedication which will be forthcoming.

### **10.1.10 Redevelopment**

It has been discovered, at some point, that this section was erroneously omitted from the adopted version of the CDO. It has been replaced with the omitted version, and two sentences have been added at the request of the Engineering Department to qualify that all public water extensions be extended to serve all connection points at the boundary of the subdivision, and shall be adequately sized to meet all design regulations and standards. This addition merely reiterates the City’s historic policy and does not institute any new requirement.

## **ARTICLE 11 – LANDSCAPING AND BUFFERING STANDARDS**

This article contains only changes to internal cross references.

## **ARTICLE 12 – SIGN STANDARDS**

This article contains no changes relative to internal cross-references or to 160-D.

## **ARTICLE 13 – NONCONFORMING USES AND STRUCTURES AND VESTED RIGHTS**

### **13.1.7 Replacement of Nonconforming Manufactured Homes on Individual Lots and 13.1.8 Nonconforming Manufactured Home Parks**

GS 160D now prohibits jurisdictions from regulating manufactured homes by their age. The CDO prohibits homes older than those built in 1976, as the Housing and Urban Development (HUD) codes prior to that date were not as stringent as current codes. As a result, the references to pre-1976 homes have been deleted.

### **13.2 Vested Rights**

This section includes changes to the time limits that may be approved if an applicant requests vested rights (to prohibit the local government from “downzoning.”) The standard period for vested rights will be increased from two (2) to up five (5) years. The City may approve vesting for larger phased development plans (PDPs) up to seven (7) years.

### **13.3 Expiration of Development Approvals**

This section has numerous changes. Special use permits (which did not previously have an expiration date) are now limited to two (2) years (unless the applicant has requested a greater time period as a vested right). The section has been amended to clarify that new special use permits will be subject to the new ordinance. This section also erroneously stated that variances had an expiration date of six (6) months to commence construction; however the statutes require that the variance “ruins with the land” in perpetuity. The provisions on the expiration of preliminary site plans has been removed and replaced with preliminary subdivision plat standards.

## **ARTICLE 14 – DEFINITIONS**

Guidance from the SOG recommends that several definitions be added, or modified. New definitions include “administrative decision,” and “bubble plan”, “event center” and “co-worker space” (the last three are staff crafted definitions.)

Modified definitions include “developer”, “development”, “dwelling”, “manufactured home”, “site plan” and “special use”. Deleted definitions relative to obsolete portions of the CDO include “conditional use”, “equivalent dwelling unit”, “equivalent residential unit”, “mobile home”, and “open flag”.

### **ADDITIONAL ITEMS REQUIRED BY GS 160D BUT NOT PLACED IN CDO**

The new statutes require the City to take several actions (and to be aware of several items) which do not require amendments to the CDO. There are also actions recommended by the SOG to ensure the City is compliant. These items include:

1. Use the terms “legislative” and “evidentiary” in public notices, agendas, etc. to identify the respective types of hearings.
2. Adopt broadened conflict-of-interest standards for all decision-making boards, and for staff members.
3. Obtaining written consent from the developer for additional conditions agreed upon at the hearing (conditional district zoning and special use permits).
4. Being aware of the permit choice provision: If an applicant files a petition for zoning action, and the CDO is changed after the application, the applicant may select whether to be compliant with the previous ordinance or the new ordinance.

### **CONCLUSION**

As evidenced by this summary, the 160D changes, while numerous, do not drastically alter most of the provisions of the CDO as it relates to Commission action. Most of the items relate to procedure.

Staff will provide an in-depth presentation to the Commission relative to the proposed changes. The amendment is in approval form for recommendation to Council for a June public hearing.

## 1.1 GENERAL PROVISIONS

### 1.1.5 AUTHORITY.

The City is authorized by the North Carolina General Statutes (“NCGS”) to exercise broad powers in the regulation of zoning, planning, subdivision of land, and building including but not limited to, enacting ordinances, procedures and fee schedules related to the administration and enforcement of development regulations. The City through the CDO intends to use all powers provided by virtue of Article 19 of Chapter 160A ( NCGS § 160A-360 to 160A-459160D-101-111 and 201-204 of the NCGS. [VK2]The CDO also uses specific powers granted in other Sections of the NCGS relating to particular types of development or particular development issues, including but not limited to right-of-way preservation, sedimentation control, watershed protection, historic preservation, and beautification and urban design.

### 1.1.9 FEES.

The *City Council* may establish any administrative fees necessary to support, administer, and implement development regulation in accordance with this Ordinance. These fees shall be reasonable and all fees collected will be used for the previously mentioned purposes. enforce the zoning ordinance. Such fees shall be limited to the reasonable costs of administering and processing applications for development approval. No permit shall be processed, and no permit shall be considered to be submitted, until all applicable administrative fees have been paid.

## 1.2 CONSISTENCY WITH COMPREHENSIVE PLAN

### 1.2.1 GENERALLY

Pursuant to NCGS ~~§ 160A-383~~ 160D-604(d) et seq., this Ordinance is intended to implement the goals, objectives, and policies of the Comprehensive Plan (also known as “Land Use Plan”, which may be used interchangeably within this Ordinance) along with related area and corridor plans. Any amendments to, or actions pursuant to the Ordinance shall be consistent with the applicable Land Use Plan. The Land Use Plan may be amended, and the CDO will reflect those amendments. Plans adopted under the Comprehensive Plan shall be considered by the planning board and governing board when considering proposed amendments to zoning regulations and commenting on plan consistency as required by NCGS § 160D-604 et seq.

### 1.2.2 COMPREHENSIVE PLAN DEFINED.

The following elements or volumes are components of the Comprehensive Plan:

- A. **Land Use Plan.** This plan presents the City’s declaration of its official policy with regard to the form and pattern of future development. It directs growth by serving as a reference guide when considering rezoning, annexation, subdivisions, and site plans. The plan also is used to direct provision of public infrastructure and aid decisions for private sector investment. Included within the Land Use Plan are several smaller “Area Plans” which serve as amendments or extensions to the official Land Use Plan. Such Area Plans include, but are not limited to: the Center City Plan and the Downtown Master Plan, Warren C. Coleman and Concord Parkway Plan, Concord Parkway Roberta Church Road Plan.
- B. **Parks, Greenways, and Bikeways Master Plan (Livable Communities Blueprint for Cabarrus County).** This plan addresses the enhancement and future implementation of a system of parks, greenways, and bikeways to meet future recreation and transportation needs of local residents.
- C. **Long Range Transportation Plan.** This plan sets forth the City’s overall objectives and strategies regarding both long-term and short-term planning of roadways, bicycle facilities, pedestrian facilities, and transit.
- D. Open Space and Connectivity Analysis. This plan identifies feasible, constructible bicycle and pedestrian routes along stream corridors, through open spaces, and along roads to create a more connected City.

#### 1.2.4 AMENDMENTS TO LAND USE PLAN<sup>[KA8]</sup>.

##### A. Initiation

1. **Initiation by a Director of a City Department.** The Director of any City department may —initiate an amendment to the Land Use Plan at any time.
2. **Initiation by Decision-Making or Review Body.** Any decision-making body may, at any time on their own motion, request that a Director of a City department investigate and evaluate a specific amendment proposal. The Administrator shall submit, within a reasonable time, a report and recommendation to the City Manager for consideration by the City Council regarding whether or not City Council and the Planning & Zoning Commission should review the proposed amendment at this time. Upon receiving the report and recommendation of the Administrator, the City Council shall determine whether or not the proposed amendment should proceed.
3. **Initiation by Applicant for Zoning Map Amendment.** ~~A petition for zoning<sup>[KA9]</sup> map amendment in contradiction to the Land Use Plan shall require a Land Use Plan amendment before the zoning map amendment may be approved.~~ A petition for zoning map amendment in contradiction to the Land Use Plan shall be treated as a petition for amendment to the Land Use Plan as well as an amendment to the Zoning Map, and may be processed as concurrent applications. The Planning and Zoning Commission has final approval authority for such concurrent applications provided they meet the provisions of Section 3.2.4. =
4. **Schedule.** The City Council may consider updates to the Land Use Plan at any regularly scheduled meeting.

##### B. Procedure.

1. **Pre-Application Conference, Applications.** The applicant shall meet with the Administrator to discuss the nature of the proposed application, application submittal requirements, the procedure for action, and the standards for filing an application. The application process and filing dates shall follow the same procedure as outlined ~~in Section 3.1.1. of this~~ for zoning amendments in Article 3 of this Ordinance.
2. **Recommendation by the Planning & Zoning Commission.** The Commission shall provide a recommendation to the City Council on each proposed amendment to the Land Use Plan. When a joint Zoning Map Amendment - Land Use Plan Amendment is requested, the ~~Planning Commission shall make a recommendation to the City Commission that addresses consistency with the Land Use Plan(s) and any other matters deemed appropriate by the Planning & Zoning Commission.~~ process shall be in accordance with Section 1.2.4.A.3.

3. **Public Hearings and Public Notice.** For those applications for amendment to the Land Use Plan that are not concurrent with a zoning amendment, ~~t~~The City Council shall hold a hearing in no more than 60 days from the date the Planning & Zoning Commission adopts its recommendation(s) on the Comprehensive Land Use Plan amendment, ~~and request for Zoning Map amendment (if any).~~ Comments by the Planning & Zoning Commission that a proposed amendment is inconsistent with the Land Use Plan shall not preclude the City Council from considering or approving any proposed amendment. ~~A public hearing shall be held on each~~<sup>[KA10]</sup> ~~proposed Land Use Plan amendment before the City Council. If a zoning map amendment is requested with the Land Use Plan Amendment, the City Council shall hold one public hearing for both requests without requiring a separate application or fee for the plan amendment~~<sup>[KA11]</sup>. Notice of the hearings shall be provided and the hearings shall be conducted in accordance with general provisions of Sections ~~3.1.6 and 3.1.7~~ 1.6.
  
4. **Approval by Simple Majority.** A plan amendment approval ~~or simultaneous zoning map amendment request~~ may be approved by a simple majority of the City Council. ~~The City Council shall take separate votes on a Comprehensive Land Use Plan amendment application and accompanying zoning map amendment (if any).~~

#### 1.5.4. CIVIL REMEDIES AND ENFORCEMENT POWERS.

Failure to comply with any provision of this Ordinance is hereby declared unlawful. The following remedies and enforcement powers may be used by administer to enforce this Ordinance:

- A. **Withhold Permit.** The administrator may withhold all permits or approvals if there is:
1. A repeat violation of this Ordinance as set forth in Section 1.5.5.B2; or
  2. There is a condition or qualification of approval granted by the Planning and Zoning Commission, the Board of Adjustment, the Historic Preservation Commission or the City Council that has not been met.
  3. The Administrator may deny or withhold all permits, certificates, or other forms of authorization on any land or structure or improvements owned or being developed by a person who owns, developed or otherwise caused an uncorrected repeat violation of this Ordinance. This provision shall apply whether or not the property for which the permit or other approval is sought is the property in violation.
- B. **Revoke Permits.** Any Development Permit or other form of authorization required under this Ordinance may be revoked for any reason set forth in § 1.5.2 and in NCGS § ~~160A-422~~ [160D-403\(f\) et seq.](#) Permit revocation or any other form of revoking development approval shall be the responsibility of the issuing party or commission/board and shall follow the same process as was used for approval. The revocation hearing (if required) shall be conducted in accordance with Sections 6.2 and 6.3 of this Ordinance.
- C. **Stop Work.** With or without revoking permits, the Administrator or Code Enforcement Officers may stop work on any land or structure on any land on which there is an uncorrected violation of a provision of this Ordinance or of a permit or other form of authorization issued hereunder, in accordance with the power to stop work pursuant to NCGS § ~~160A-421~~ [160D-404\(b\) et seq.](#) The stop order shall be in writing, directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons therefore, and the conditions under which the work may be resumed.
- D. **Revoke Plan or Other Approval.** Where a violation of this Ordinance involves a failure to comply with approved plans or conditions to which the approval of such plans was made subject, the Administrator may, upon notice to the applicant and other known parties in interest (including any holders of building permits affected), revoke the plan approval pursuant to G.S. [160D-403\(f\)A-422](#). If the plan was issued or approved at a public hearing, the Administrator shall schedule the hearing for revocation for the next available public hearing of the appropriate commission/board. Any permit mistakenly issued in violation of an applicable State or local law may also be revoked.

- E. **Injunction and Abatement.** This CDO may be enforced by any means or any remedy provided for in NCGS § ~~160A-175 and 160A-389~~ 160D-404(c). An action for injunction of any illegal subdivision, transfer, conveyance, or sale of land may be prosecuted by the Administrator or ~~his~~ designee pursuant to NCGS § ~~160A-375, 160D-807.~~
- F. **Other Remedies.** The Administrator, City Council, Planning and Zoning Commission and the Board of Adjustment shall have such other remedies as are, and as may be from time to time, provided by North Carolina law for the violation of zoning, subdivision, sign or related Ordinance provisions included but not limited to civil penalties, fines, court ordered actions, and criminal prosecution.

#### 1.5.5. PENALTIES FOR VIOLATION.

- A. **First Offense.** Any violation occurring once within a 36-month period shall be considered a first offense. A notice of violation shall be issued by the Code Enforcement Unit of the Police Dept. and shall provide for a seven (7) day warning period. Upon the expiration of the seven (7) day warning period, the violator shall be subject to a civil penalty of \$100.00 for each day for each violation that the violation remains on the property. Each day that a violation remains uncorrected after receiving proper notice shall constitute a separate violation of this Ordinance. Should a violation continue to exist by the twenty-first (21<sup>st</sup>) day of the original notification, the City shall seek to recover the penalty together with all costs by filing a civil action in the General Court of Justice in the nature of a suit to collect a debt. The collection of a penalty pursuant hereto shall not foreclose further proceedings for penalties coming due subsequent to the date of the filing of a prior proceeding. The provisions of this section may also be enforced through any other appropriate remedies as prescribed in Section 1.5.4.
- B. **Repeat Offense.** Any violation of reoccurring on the same property by the same violator more than once within a 36-month period shall be considered a repeat offense provided the reoccurrence is a violation of the same Article of this Ordinance. A notice of violation shall be issued by the Code Enforcement Officers and shall have an immediate civil penalty of \$300.00. Each day that a violation remains uncorrected after receiving proper notice shall constitute a separate violation of this Ordinance, therefore each day the repeat violation remains, the violator shall be subject to a civil penalty of \$300.00. Should a violation continue to exist by the seventh (7<sup>th</sup>) day of the original notification, the City shall seek to recover the penalty together with all costs by filing a civil action in the General Court of Justice in the nature of a suit to collect a debt. The collection of a penalty pursuant hereto shall not foreclose further proceedings for penalties coming due subsequent to the date of the filing of a prior proceeding. The provisions of this section may also be enforced through any other appropriate remedies as prescribed in Section 1.5.4.

**C.a. Notices of Violation.** Notices of Violation (NOVs) shall be issued in conformance with statutory procedures and will be delivered to the permittee and landowner if different; may be delivered to the property occupant or person undertaking the activity; shall be delivered by hand, email, or first-class mail; and may be posted onsite. The Administrator shall certify the NOV and place in the case file.

#### 1.5.8 ENFORCEMENT PROCEDURES.

- A. **Non-Emergency Matters.** In the case of violations of this Ordinance that do not constitute an emergency or require immediate attention, the Code Enforcement Officers shall give notice of the nature of the violation to the property owner or any applicant for any relevant permit in the manner hereafter stated as prescribed in Sections 1.5.5.4 and 1.5.5.2C. ~~The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval by personal delivery, electronic delivery, or first class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the City that the notice was provided and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1123, 160D-1206, or otherwise provided by law, a notice of violation may be appealed to the Board of Adjustment pursuant to G.S. 160D-405. Notice shall be given in person, by Certified Mail, or by posting notice on the premises. Notices of violation shall state the nature of the violation and the time period for compliance and may state the corrective steps necessary and the nature of subsequent penalties and enforcement actions should the situation not be corrected.~~ [VK22]
- B. **Emergency Matters.** In [VK23][KA24][VK25] the case of violations of this Ordinance that constitute an emergency situation resulting in an immediate threat to the health, or safety of the public, or violations that will create increased problems or costs to the public for the provision of City services if not remedied immediately, the Code Enforcement Officers may use the enforcement powers available under this Article without prior notice, but the Code Enforcement Officer(s) shall attempt to give notice simultaneously with beginning enforcement action. Notice may be provided to the property owner, to any other person who can be contacted and has an identifiable relationship to the violation and/or owner.

## 1.6 GENERAL PROCEDURAL REQUIREMENTS

- ▲ The City shall provide notice for all zoning map amendments, special use permits, and Historic Preservation and Board of Adjustment items as set forth in NCGS ~~§ 160A-364, 160A-388(a2), and § 160A-384~~ 160D-601, [KA26] and 602 et seq., consisting of at least first-class mailed notice to immediate neighbors, properties separated from the subject property by street, railroad, or other transportation corridor, and other parties that have expressed an interest in the project, and a notice prominently posted on the site, or expanded public notice in the event that the zoning comprises more than 50 properties owned by at least 50 different property owners. Posted notice shall be given from twenty-five (25) days prior to the hearing until ten (10) days prior to the hearing.

In accordance with NCGS § 160D-406(b) an evidentiary hearing can be continued without additional notice if the time, date, and place of the continued hearing is announced at a duly noticed hearing that has been convened. If quorum is not present at a meeting, the evidentiary hearing is automatically continued to the next regular meeting of the board with no additional notice required.

## 2.1. ~~DEVELOPMENT SERVICES~~ PLANNING AND NEIGHBORHOOD DEVELOPMENT DEPARTMENT AND ADMINISTRATOR

### 2.1.1. ESTABLISHMENT OF ~~DEVELOPMENT SERVICES~~ PLANNING AND NEIGHBORHOOD DEVELOPMENT DEPARTMENT

Pursuant to NCGS ~~§ 160A-364~~ 160D-301, the City hereby establishes the Development Services Planning and Neighborhood Development Department of the City. The Planning and Neighborhood Development Department ~~Development Services Department~~ shall perform the planning review functions for the City and shall provide technical support and guidance for action on all plan and ordinance amendments and on applications for development approval. The Planning and Neighborhood Development Department ~~Development Services Department~~ shall perform other functions as may be requested by the City Council or authorized by this Ordinance.

### 2.1.2. ESTABLISHMENT OF ADMINISTRATOR

The City hereby authorizes the Planning and Neighborhood Development ~~Development Services~~ Director to function as the administrator of this Ordinance (the "Administrator"). The Administrator is charged with the authority and the duty to enforce this Ordinance. The Administrator is authorized to establish and delegate when appropriate Department standards of operation and procedures consistent with the intent of this Ordinance. The Administrator or his delegee may also consult with other officials, boards or agencies with needed technical expertise (such as the Director of Engineering or the Fire Chief). "Administrator" shall include staff authorized by the Administrator.

### 2.1.3. APPEALS FROM THE DECISION OF THE ADMINISTRATOR

Appeals from the decisions of the Administrator in which it is alleged there is an error in an order, requirement, decision, or determination made by the Administrator in the enforcement of this Ordinance shall be made to the Board of Adjustment in accordance with Sections 2.2 and 6.3.

#### **2.1.4. INSPECTION**

Pursuant to NCGS § ~~160A-411~~ 160D-402 et seq., the Administrator and the Code Enforcement Officers are hereby designated the Zoning and Subdivision Inspectors for the City. The Inspectors are empowered to enter or inspect any building, structure, premises, or real property in the City upon which, or in connection with which, a development or land use is located or proposed for the purpose of inspection to ensure compliance with the provisions of this Ordinance including but not limited to compliance with building permits. Such inspections shall be carried out during business hours and upon presenting credentials unless the Administrator or Inspectors determine that an emergency exists. Entry onto private property for the purpose of inspection shall be made only after securing permission from the owner. Application for any development approval shall constitute permission to inspect a property. Failing permission, no inspection shall be undertaken without an order from a court of competent jurisdiction.

#### **2.1.5. ENFORCEMENT**

The Administrator may hereby commence an action to enforce the provisions of this Ordinance pursuant to NCGS § ~~160A-389~~ 160D-404(c), and Section 1.56 of this Ordinance.

## 2.2. BOARD OF ADJUSTMENT

### 2.2.1. ESTABLISHMENT

Pursuant to NCGS § ~~160A-388~~ [160D-1-9\(d\) et seq.](#), there is hereby established the Board of Adjustment of the City of Concord.

### 2.2.2. POWERS AND DUTIES

A. Pursuant to NCGS § ~~160A-388~~ [160D-1-9\(d\) et seq.](#), the Board of Adjustment shall have the following powers, duties and authority:

1. to hear and decide appeals from the decisions of the Administrator in which it is alleged there is an error in an order, requirement, decision, or determination made by the Administrator in the enforcement of this Ordinance (NCGS § ~~160A-388(b)~~ [160D-1-9\(d\) et seq.](#));
2. to hear and decide on applications for variances from the terms of the zoning ordinance pursuant to Section 2.2 of this Ordinance and NCGS § ~~160A-388(d)~~ [160D-1-9\(d\) et seq.](#) The Board shall have the authority to place conditions, including time limits, on variances;
3. to exercise such other powers as may be granted by this Ordinance.

B. **Quasi-judicial Procedures**

The consideration of any appeal, variance or interpretation, as provided above, shall be in accordance with the quasi-judicial procedures as set forth in Sections [6.2 and 6.3](#) of this Ordinance [and NCGS § 160D-102](#).

1. Any quasi-judicial matter pertaining to property in the extra-territorial jurisdiction of the City shall only be considered by the Commission with the extra-territorial jurisdiction member ~~present~~<sup>[KAL]</sup>.
2. The Board of Adjustment shall adopt all rules and procedures necessary or convenient for the conduct of its business, consistent with the North Carolina General Statutes. [All Board of Adjustment rules and procedures will be maintained by the clerk or other appointed official and an up-to-date version of the rules and procedures will be posted to the City's website.](#)

C. **Limitations of Board**

The Board of Adjustment shall not have power, jurisdiction, or authority to perform any of the following actions:

1. make any changes in permitted uses on any zoning classification or zoning district; or
2. grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.

### 2.2.3. MEMBERSHIP

- A. The City Council shall [solicit applications for, review applications for, and](#) appoint seven (7) persons to the Board of Adjustment as provided in this Ordinance. The membership shall include proportional representation for extraterritorial areas [based on a frequently updated ETJ population estimate](#), as provided in NCGS § ~~160A-362~~ [160D-307](#). (The Cabarrus County Board of Commissioners shall appoint one representative from the extraterritorial jurisdiction as required by NCGS § ~~160A-362~~ [160D-307](#).) The City Council shall appoint two (2) alternate members to serve on the Board in the absence of any regular member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the Board and serving in the temporary absence of any regular member, shall have and may exercise all the powers and duties of a regular member.
- B. All members shall serve a term of three (3) years. A member may be reappointed for a second consecutive term. After two (2) consecutive terms a member shall be ineligible for reappointment until one calendar year has elapsed from the date of termination of the second term.
- C. The City Council may remove any member of the Board of Adjustment for just cause, as may be permitted by law. The City Council shall provide the member with a public hearing, if requested.
- D. If any member of the Board of Adjustment shall fail to attend three consecutive (3) regular meetings of the commission within any three-month period, it will be sufficient grounds for termination of the member's appointment. The City Council may, by appropriate action, terminate the appointment of such person and fill the vacancy as soon as possible. Absence due to sickness, death, or other emergencies shall be recognized as approved absences. In the event of a long illness or other such cause for prolonged absence, the member shall be replaced.
- E. Upon a vacancy in the regular membership, City Council may first consider appointing the "senior" alternate member to the vacancy. City Council may appoint any qualified person to a vacancy.
- F. The Board of Adjustment shall adopt and publish [to the City's website](#) rules of procedure for the conduct of its business.

## 2.3. PLANNING AND ZONING COMMISSION

### 2.3.1. ESTABLISHMENT

Pursuant to NCGS § ~~160A-364~~ 160D-301, there is hereby established a planning agency known as the Planning and Zoning Commission of the City of Concord.

### 2.3.2. POWERS AND DUTIES

The Commission shall provide an advisory function to assist in making decisions pertaining to amendments to the Comprehensive Plan and this Ordinance, and applications for development approval. The Commission shall have the following powers and duties to:

- A. exercise any of the powers and/or duties assigned pursuant to NCGS §§ ~~160A-364~~ 160D-301 and ~~160A-381~~ 160D-107 et seq. including, but not limited to, the preparation of a comprehensive plan;
- B. prepare amendments to the plan and its elements and to submit the amendments to the City Council;
- C. initiate, hear, review, make recommendations to the City Council on applications for amendments to the text of this Ordinance;
- D. initiate, hear, review, make recommendations to the City Council, and/or make final decisions on applications for amendments to the Official Zoning Map. As prescribed in Section 3.2 of this Ordinance, the Commission shall render a final decision (subject to appeal) on applications for amendments to the Official Zoning Map (including those with concurrent amendments to the Land Use Plan) with a super-majority vote of at least three-fourths<sup>[K2]</sup><sup>[KA3]</sup> of the Commission;
- ~~E. hear<sup>[KA4]</sup>, review, and or disapprove all applications for major subdivision and/or site plan approval in accordance with the rules and regulations established in Articles 5 and 6 (except for Section 6.3);~~
- ~~F.~~ E. adopt bylaws, policies, procedures, and regulations for the conduct of its meetings, the consideration of applications for development approval, and for any other purposes deemed necessary for the functioning of the Commission. All bylaws, policies, procedures, and regulations shall be consistent with this Ordinance and shall be approved by the City Council before taking effect. Upon City Council approval, the clerk or appointed official will maintain a record of all adopted bylaws, policies, procedures, and regulations and post the record to the City's website;
- ~~G.~~ F. review and consider issuing special use permits; and
- ~~H. review<sup>[KA5]</sup> and consider approving major site plans.~~

### 2.3.3. MEMBERSHIP

The City Council shall [solicit applications for, review applications for, and](#) appoint seven (7) persons to the Planning and Zoning Commission as provided in this Ordinance. The membership shall include proportional representation for extraterritorial areas, as provided in NCGS ~~§ 160A-362~~ [160D-307](#). (The Cabarrus County Board of Commissioners shall appoint one representative from the extraterritorial jurisdiction as required by NCGS ~~§ 160A-362~~ [160D-307](#).) The City Council shall appoint two (2) alternate members to serve on the board in the absence of any regular member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the board and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member.

- A. All members shall serve a term of three (3) years. A member may be reappointed for a second consecutive term. After two (2) consecutive terms a member shall be ineligible for reappointment until one calendar year has elapsed from the date of termination of the second term.
- B. The City Council may remove any member of the Planning and Zoning Commission for just cause, as may be permitted by law. The City Council shall provide the member with a public hearing if requested.
- C. If any member of the commission shall fail to attend three (3) regular meetings of the commission within any consecutive three-month period, the chair or the vice-chair shall immediately file a notification of such nonattendance with the City Council for placement on the Council agenda. The City Council may, by appropriate action, terminate the appointment of such person and fill the vacancy as soon as possible. Absence due to sickness, death, or other emergencies shall be recognized as approved absences. In the event of a long illness or other such cause for prolonged absence, the member shall be replaced.
- D. Upon a vacancy in the regular membership, City Council may first consider appointing the “senior” alternate member to the vacancy. City Council may appoint any qualified person to a vacancy.
- E. The Planning and Zoning Commission shall adopt and publish [to the City’s website](#) rules of procedure for the conduct of its business.
- F. At an annual organizational meeting, the members of the Commission shall elect one (1) of their members as chair and one (1) as vice-chair. In the absence of the chair, the vice-chair shall act as chair and shall have all powers of the chair. In the absence of both, the Commission shall elect a temporary chair to conduct the meeting.

## 2.4. CITY COUNCIL

### 2.4.1. POWERS AND DUTIES

The City Council shall render final decisions pertaining to amendments to the Comprehensive Plan and this Ordinance, except where authority for a final decision is delegated to another agency by this Ordinance. The City Council shall render final decisions pertaining to applications for development approval where such authority is assigned pursuant to this Ordinance. The City Council shall have the following powers and duties to:

- A. initiate, adopt, and amend a Comprehensive Plan;
- B. initiate amendments to the text and map of this Ordinance and the Comprehensive Plan;
- C. review recommendations of the Planning and Zoning Commission, and make final decisions on applications for amendments to the text of this Ordinance;
- D. accept or decline offers of dedication or performance guarantees of infrastructure or real property. Offers of dedication are typically made in the course of developing subdivisions, but may be made in the course of other kinds of development, such as planned unit developments;
- E. hear, review, and approve, conditionally approve, or deny amendments to the Official Zoning Map after a recommendation of the Planning and Zoning Commission has been submitted pursuant to NCGS § ~~160A-387~~ 160D-604. In accordance with Section 3.2 of this Ordinance, such amendments shall only be heard by City Council if:
  - 1. the amendment was denied by Planning and Zoning Commission;
  - 2. the amendment was approved, but the affirmative votes represented less than three-fourths of the Commission;
  - 3. a decision of the Planning and Zoning Commission has been made pursuant to Section 3.2.4.3 of this Ordinance and an appeal has been filed;
  - 4. subsequent to the initial adoption of a zoning ordinance, all proposed amendments to the zoning ordinance or zoning map shall be submitted to the Planning and Zoning Commission for review and comment. If no written report is received from the Commission within thirty days of referral of the amendment to the Commission, the City Council may proceed in its consideration of the amendment without the Commission's report. The City Council is not bound by the recommendations, if any, of the Planning and Zoning Commission; and

~~F. Hear, review, and approve, conditionally approve, or deny applications for major subdivision<sup>[KA6]</sup> and/or site plan approval in accordance with Article 5. These applications are considered by City Council only if the Planning and Zoning Commission has denied the petition and the applicant requests an appeal to City Council within 15 days of the decision of the Planning Commission.~~

**G.** take such other action not otherwise delegated, as the City Council may deem desirable and necessary to implement the provisions of this Ordinance and the Comprehensive Plan.

## 2.5. HISTORIC PRESERVATION COMMISSION

### 2.5.1. ESTABLISHMENT

Pursuant to NCGS § ~~160A-400.7~~ 160D-303 et seq., there is hereby established the Concord Historic Preservation Commission, hereafter referred to as the Historic Preservation Commission or Commission, to consist of seven (7) regular members and two (2) alternate members appointed by the City Council of the City of Concord. The City Council shall establish the Commission's compensation, if any.

### 2.5.2. POWERS AND DUTIES

The Commission shall seek to promote, enhance and preserve the character of the districts. The Historic Preservation Commission is authorized and empowered to undertake reasonable actions to discharge and conduct its duties and responsibilities as outlined in this Ordinance and Part ~~3C4~~, Article 49 of Chapter ~~160A-160D~~ of the NCGS including, but not limited to, the following:

- A. Recommend to the Planning and Zoning Commission areas to be designated by ordinance as "historic districts" and individual structures, buildings, sites, areas, or objects to be designated by ordinance as "landmarks".
- B. Recommend to the City Council that designation of any area as a historic district, or part thereof, or designation of any building, structure, site, area, or object as a landmark, be revoked or removed for cause.
- C. Review and act upon (grant or deny) applications for Certificate of Appropriateness requests for alterations, demolition, or new construction within historic districts, or for the alteration or demolition of designated landmarks in accordance with Section ~~7-11-9.8~~ of this Ordinance.
- D. Give advice to property owners concerning the treatment of the historical and visual characteristics of properties located within the districts, such as color schemes, gardens and landscaping features, and minor decorative elements.
- E. Propose to the City Council changes to this or any related ordinance; propose new ordinances or laws relating to the historic districts, historic landmarks, or the development of the historical resources of the City of Concord and its environs.
- F. Cooperate with other City of Concord boards or commissions or with agencies of the City or other governmental units; offer or request assistance, aid, guidance, or advice concerning matters under its purview.
- G. Publish information about, or otherwise inform the owners of property within the districts of any pertinent matters. Such information may be in the form of guidelines standards, handbooks, pamphlets, brochures, etc.
- H. Conduct an educational program with respect to historic districts and landmarks within its jurisdiction.

- I. Undertake programs of information, research, or analysis relating to any matters under its purview.
- J. Report violations of this ordinance or related ordinances to the [Development Services Planning and Neighborhood Development](#) Director responsible for enforcement.
- K. Assist City staff in obtaining the services of private consultants to aid in carrying out programs for research or analysis.
- L. To secure appropriate rights of public access and promote the preservation of the property.
- M. Accept funds granted to the Commission from private or nonprofit organizations.
- N. Contract, with the approval of the City Council, for services or funds from the State of North Carolina and agencies or departments of the United States government.
- O. Recommend to the City Council and the State of North Carolina structures, sites, objects, or districts worthy of national, state or local recognition.
- P. Establish [guidelines-standards](#) under which the [Development Services Planning and Neighborhood Development](#) Director or his designee may approve minor [modifications\[K7\]](#) on behalf of the Commission. No application shall be denied without first being considered by the Commission.
- Q. Conduct public hearings on applications for Certificates of Appropriateness where the Commission deems that such a hearing is necessary.
- R. Organize itself and conduct its business by whatever legal means it deems proper.
- S. Exercise such other powers and perform such other duties as are required elsewhere by this Ordinance, the General Statutes of North Carolina, or by the City Council.

### 2.5.3. MEMBERSHIP

- A. The City Council shall solicit applications for, review applications for, and appoint seven (7) persons to the Historic Preservation Commission as provided in this Ordinance. If any districts or landmarks are designated within the Extraterritorial Jurisdiction (ETJ), proportional representation for the ETJ will be included on the Commission. The membership shall include territorial representation and a majority of the members shall have demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields. The City Council shall appoint two (2) alternate members to serve on the board in the absence of any regular member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the board and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member.
- B. All members shall serve a term of three (3) years. A member may be reappointed for a second consecutive term. After two (2) consecutive terms a member shall be ineligible for reappointment until one calendar year has elapsed from the date of termination of the second term.
- ↙ C. The City Council may remove any member of the Historic Preservation Commission for just cause, as may be permitted by law. The City Council shall provide the member with a public hearing, if requested.
- D. If any member of the Historic Preservation Commission shall fail to attend three (3) consecutive regular meetings of the commission within any three-month period, it will be sufficient grounds for termination of the member's appointment. The City Council may, by appropriate action, terminate the appointment of such person and fill the vacancy as soon as possible. Absence due to sickness, death, or other emergencies shall be recognized as approved absences. In the event of a long illness or other such cause for prolonged absence, the member shall be replaced.
- ↙ E. Upon a vacancy in the regular membership, City Council may first consider appointing the "senior" alternate member to the vacancy. City Council may appoint any qualified person to a vacancy.
- F. The Historic Preservation Commission shall adopt and publish on the City's website rules of procedure for the conduct of its business. All adopted rules of procedure shall be maintained by the clerk or appointed official.
- G. At an annual organizational meeting, the members of the Commission shall elect one (1) of their members as chair and one (1) as vice-chair. In the absence of the chair, the vice-chair shall act as chair and shall have all powers of the chair. In the absence of both, the Commission shall elect a temporary chair to conduct the meeting.

#### **2.5.4. MEETINGS, HEARINGS, AND PROCEDURES**

- A. The Commission shall establish a regular meeting schedule by rule. Special meetings may be requested by the City Council, the chair of the Commission, a majority of the members of the Commission, or the Administrator.
- B. If a matter is postponed due to a lack of a quorum, the chair of the Commission shall continue the meeting to the next commission meeting. The recording secretary shall notify all members and all appropriate parties of the date of the continued meeting.
- C. No meeting of the Commission may be called to order, nor may any business be transacted by the commission, without a quorum consisting of a majority of the appointed membership of the commission. The chair shall be considered for purposes of establishing a quorum and shall act as a voting member. All Commission actions shall require the concurring vote of a majority of the members of the Commission.

#### **2.5.5. RECORDING SECRETARY**

The administrator shall appoint a recording secretary to serve the Historic Preservation Commission. The secretary shall keep minutes to summarize all proceedings, all attested to by a majority of the members of the Historic Preservation Commission voting. Minutes of the proceedings of the Commission showing the vote of each member and records of its examinations and other official actions shall be filed in the office of the Commission as the public record. The [Development Services Planning and Neighborhood Development](#) Department is hereby designated as the office of the Commission for purposes of this Subsection. In addition, the secretary shall maintain all records of the Commission meetings, hearings and proceedings, as well as the correspondence of the Commission.

#### **2.5.6. STAFF**

The administrator shall be the professional staff of the Historic Preservation Commission.

## 2.6. CITY STAFF - DEVELOPMENT REVIEW COMMITTEE

### 2.6.1. ESTABLISHMENT

The City Manager shall appoint a committee of staff members consisting of department heads who have particular expertise in the development of real property as the Development Review Committee (DRC). The Committee shall be chaired by the ~~Director of Development Services~~ Planning and Neighborhood Development Director. At a minimum, the DRC members shall consist of the Director of Engineering, the Fire Chief, the Director of Transportation and the Director of Environmental Services Water Resources (or their designees). Other departments that shall serve on the committee on an ad hoc basis, depending on the nature, size and complexity of the development project to be reviewed include, but are not limited to: Parks and Recreation, Electric Systems, Transportation, Solid Waste, Legal, Transit, Water Resources, Wastewater Systems, Environmental Services (Stormwater), and Police, and Business & Neighborhood Services.

### 2.6.2. POWERS AND DUTIES

#### Administrative Approval ~~KAS~~

~~The Development Review Committee may, with or without conditions, approve minor preliminary subdivision plans without review by the Planning and Zoning Commission or the City Council except in one (1) or more of the following situations:~~

- ~~A. The plan requires a variance to be granted pursuant to Section 6.3 of this Ordinance.~~
- ~~B. The plan is an infill project in the Center City District.~~
- ~~C. The plan requires approval of an encroachment into or over any public right-of-way.~~

### 2.6.3. REVIEW OF OTHER DEVELOPMENT PLANS

The DRC shall meet periodically to review and comment on all plans to be reviewed and/or approved by any other body listed in this Article, including the City Council, Planning and Zoning Commission, Board of Adjustment, and Historic Preservation Commission and all request for permits, for conformity with the City Code and with City Council resolutions.

- A. The DRC shall develop rules of procedure and schedules to ensure that plans submitted shall be reviewed and comments returned to developers in a timely manner. These rules of procedure shall be maintained by the clerk or other appointed official and be posted to the City's website.
- B. The DRC shall develop unified comments and the Chair shall submit one written set of comments to each applicant.
- C. The DRC shall keep written records of any action taken, or comments made.

## 3.2 CHANGES TO THE OFFICIAL ZONING MAP

Changes to the zoning map (rezonings) occur through a public hearing conducted by either the Planning Commission, City Council, or in some instances, both.

### 3.2.1 PRE-APPLICATION MEETING

Prior to filing a petition for a zoning amendment, the petitioner shall meet with the Planning Department staff to discuss the proposed amendment. The staff shall provide the petitioner with the proper application forms. The purpose of this meeting is to advise the petitioner of the zoning amendment process, notice issues (including neighborhood meeting requirement) and other concerns and information relative to the amendment of the zoning.

### 3.2.2 FILING OF PETITION

A zoning amendment petition shall be on a form prescribed by the Planning Department and shall be accompanied by the fee established in the most recent budget ordinance adopted by the City Council. The Administrator shall establish schedules to file any application for development approval that requires action by the Planning and Zoning Commission, the Board of Adjustment or the City Council. Such applications shall be filed according to the established schedules in advance of any public hearing or public meeting required pursuant to this Ordinance or the N.C. General Statutes.

Applications for conditional district rezoning (Section 3.2.98) shall be initiated only by petition signed by the property owner, a person with property interest, or a contract to purchase the property.

For conditional district rezoning's, zoning amendment requests, after receipt of the petition, the staff shall forward the petition including the site plan to the Development Review Committee (DRC) for review and comments prior to the hearing. The site plan and supporting materials shall be in final approval form at least fifteen (15) days prior to the date of hearing in order to allow the staff adequate time to prepare a report for the Commission. At this time, the DRC shall concur that the site plan sufficiently meets minimum requirements prior to the item proceeding to the Planning Commission for public hearing.

A staff report, summarizing the petition, shall be prepared and posted to the City's website when complete.

### 3.2.6 STATEMENT OF CONSISTENCY WITH THE COMPREHENSIVE PLAN

Prior to adopting or rejecting any zoning map amendment the Planning and Zoning Commission shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan (including a land use plan, parks, greenways and bikeways master plan, and long-range transportation plan) and explaining why the Commission considers the action taken to be reasonable and in the public interest. A statement of reasonableness and consistency can be considered and approved as a single, combined statement.

If a written statement of consistency is not formally adopted, the minutes may be used to meet the requirement for plan consistency if the minutes reflect that the board was fully aware of and considered the comprehensive plan when making its decision.

- E. Hearings for conditional zoning districts shall be legislative in nature. Sworn testimony and findings of fact for approval or denial are not required. The Commission or Council may suggest reasonable additional conditions or augment those proposed with the petition, but only those conditions mutually agreed upon by the petitioner and the Commission or Council may be incorporated into the approval. Any such condition should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, storm water drainage, the provision of open space and other matters that the Commission or Council may find appropriate. Such conditions to approval of the petition may include dedication to the City or State as appropriate, any right-of-way for streets or other public utilities necessary to serve the proposed development. Other dedications and performance guarantees can be suggested and agreed upon as deemed appropriate by the Commission or Council. All conditions and development approvals should be in writing either in print or in an electronic format that is protected from further editing.
- H. A request for an administrative amendment shall be in the form of a letter, signed by the property owner and addressed to the Administrator (or designee) detailing the requested change. The Administrator may require additional information from the petitioner, and may, if necessary, consult with the Development Review Committee (DRC). The Administrator may approve the change upon finding that the proposed change is substantially similar to the approved plan. Changes that are not considered similar include:
1. Increasing the number of buildings;
  2. Increasing the number of dwelling ~~units~~ or the approved density of the project by more than five (5) units or 10% of the total, whichever is less;
  3. Addition of access points to a public street;
  4. Reducing number of parking spaces, landscaping, buffers or setbacks below minimum standards;
  5. Moving proposed structures closer to adjacent residential properties or adjacent residential zoning;
  6. Reducing open space; and
  7. Increasing the mass or height of buildings.
- The administrator shall respond, in writing, to the petitioner, either approving or denying the administrative amendment. The letter to the petitioner shall explain the reasons behind the approval or denial. In the event of denial, the petitioner may appeal the decision to the Zoning Board of Adjustment in accordance with Section 6.3 or may file a new conditional district zoning petition in accordance with this Article.

# ARTICLE 5. SUBDIVISION PLATS, SITE PLANS AND CONSTRUCTION PLANS

**Summary:** Many new developments require the creation of new lots or subdivisions. Others require detailed plans showing most of the features of the new development, such as buildings, parking lots, landscaping, stormwater ponds, and other features. These are called “site plans.” Subdivisions and site plans are the two most common and complex types of plans for new development. As such, they deserve their own article. All site plans and subdivisions must be designed with the environmental requirements of Article 4 in mind. Before designing a subdivision or site plan, please consult Article 4. Subdivisions are approved in a two-step process. First, preliminary plats are approved (Section 5.2). Preliminary plats must conform to the standards for the creation of new lots found in [Section 5.5 and Articles 7 and 9](#)<sup>[SS1]</sup>. After approval of a subdivision or site plan ~~controlled development~~, technical plans for the installation of roads, sewers, water lines and stormwater control devices must also be approved. These requirements are found in Section 5.6, (Construction Plans). After the installation of the improvements shown in the construction plans, comes the final approval of the subdivision in Section 5.3, (Final Plats). Site plans (Section 5.4, Site Plan-Controlled Development) are required for ~~non-residential and more intense residential developments~~ developments that require hearing by the Planning and Zoning Commission for conditional district zonings or special use permits. If new lots are created, a subdivision and site plan ~~may be~~ will be required for the same development. Typically, lots are subdivided before ~~commercial site plans~~ construction drawings are ~~made~~ generated. The details on the inspection of new utility infrastructure and acceptance of utilities by the City Council are found at Section 5.7 (Construction). References made in this Article to the Manual are to the “City of Concord Technical Standards Manual” or “TSM”.

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### 5.1. PURPOSE

Changes to the population of an area and use of land affect the demand for infrastructure and services. The purpose of this Article is to promote the safe, functional, and aesthetically

pleasing development of property. (See also Article 1 for a further statement of the purpose and intent of this Ordinance.) This Article contains the requirements for subdivision plats (at § 5.2 and 5.3) and site plans (at § 5.43). After obtaining approval of a subdivision plat or site plan, the next step is to obtain approval of construction plans and receive appropriate utility permits (See § 5.6-4 and Code of Ordinances Chapter 62). Finally, this Article concludes with the general rules and polices governing construction and the acceptance of infrastructure improvements for permanent maintenance by the City in § 5.75. In addition, please see the City of Concord Technical Standards Manual (the Manual) for further requirements about required construction practices and standards. The procedures for obtaining all other development-related permits are found at Article 6. (Permits and Approval Processes).

### 5.1.1. SUBDIVISION DEVELOPMENT.

- A. **Purpose.** In accordance with NCGS §§ ~~160A-371-160D-801 through 160A-376~~et seq., the purposes of this Section are to:
1. Ensure necessary infrastructure is adequate to serve areas with new development,
  2. Ensure municipal services are available to new development,
  3. Ensure recreational opportunities are available to new development,
  4. Ensure natural resources are protected,
  5. Ensure necessary easements are created and provisions are made to allow for the proper maintenance of infrastructure, and
  6. Ensure that offers of dedication of infrastructure are properly made and accepted.
- B. **Introduction.** Subdivisions are divided into two types, minor and major. Each major subdivision is approved in 4 phases: ~~first~~ the preliminary plat, ~~second~~ the construction drawings, ~~third~~ the final plat, which includes offerings of dedications of easement and rights of way, and last acceptance of any offers to dedicate infrastructure for maintenance such as sewer pipes, sidewalks, water lines, streets and others. Minor subdivisions may not require preliminary plats, at the Administrator's discretion ~~are approved by the staff Administrator on the recommendation of the Development Review Committee or the Planning & Zoning Commission (major plats only).~~ The City Engineer or his designees approve construction drawings on the recommendation of the Development Review Committee. Final plats are approved by the staff Administrator (~~minor subdivisions~~) on the recommendation of the Development Review Committee (DRC) ~~or the Planning & Zoning Commission~~. See Table 5.1 below.

**Table 5.1: Types of Subdivisions and their Approving Body.**

Type of Subdivision(s)	Type of Required Plats	Approved by:
Minor Subdivision	(1) Preliminary Plat	Administrator with Development Review Committee
	(2) Final Plat	Administrator with Development Review Committee.
Major Subdivision	(1) Preliminary Plat	Administrator with Development Review Committee, Planning & Zoning Commission
	(2) Final Plat	Administrator with Development Review Committee, Planning & Zoning Commission
Construction Drawings		Director of Engineering with Development Review Committee
<u>Offers of Dedication and Infrastructure Acceptance</u>		City Council

1. **Minor Subdivisions Defined:** Subdivisions of ten or fewer lots, having no public utility extensions, creating no new public streets and where no lot is taking access from a major or minor thoroughfare.
  2. **Major Subdivision Defined:** All subdivisions other than minor subdivisions.
- C. Plats shall be prepared by registered North Carolina professional engineers, professional land surveyors or other professions approved by the State of North Carolina.

**5.1.2. APPLICABILITY**

No person shall subdivide land and/or file or record a subdivision plat required by this Ordinance with the Register of Deeds and/or sell or transfer a single lot or a single lot in a subdivision plat required by this Ordinance without making and recording a plat and complying fully with the provisions of this ordinance and all other state and local laws and regulations. No person shall create a ~~minor or major~~ subdivision within the jurisdiction of the City of Concord without preparing a ~~preliminary and final~~ plat verifying that all applicable standards are met<sup>[KA2]</sup>. Final and preliminary plats shall be prepared for all ~~minor and/or~~ major subdivisions and combinations of land, including all divisions of a tract or parcel of land into one or more tracts or parcels created for the purpose of sale or building development (whether immediate or future) and all divisions of land involving the creation of a new street or a change to an existing street except the following:

- A. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots meet or exceed the lot standards in <sup>[SS3]</sup>§5.5;
- B. The division of land into parcels greater than ten (10) acres where no right-of-way dedication is required;

- C. The purchase [or acquisition](#) of strips of land by a public entity for the widening or opening of streets or for public transportation system corridors, [or for providing utilities](#); and
- D. The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots meet or exceed the lot standards in [Article 7 §5.5](#) and all of the other standards of this ordinance.

[See also the definition of subdivision in Article 14.]

## 5.2. PRELIMINARY PLATS

### 5.2.1 SIZE AND SCALE.

No specific size requirements apply to preliminary plats. Preliminary plats shall be prepared at a standard scale for which one (1) inch equals a distance of one hundred (100) feet or less, such as twenty (20), thirty (30), forty (40), fifty (50), or sixty (60) feet.

### 5.2.2. CONTENTS.

The preliminary plat shall depict or contain the information set forth below.

#### A. General Information.

1. Plat title,
2. Revision number,
3. Legend,
4. Vicinity map depicting the location of the subdivision relative to the municipal limits and the surrounding area,
- 5.
5. Existing topography with a minimum four-foot contour interval,
6. Boundaries of wetlands, floodways, and one-hundred-year floodplains,
7. Memo describing stream channels as delineated on-site with copies of the Cabarrus County Soil Survey and the applicable 1:24,000 USGS Quadrangle,
8. Existing structures,
9. Existing and proposed built-upon or impervious surface area, given in square feet,
10. Existing and proposed waterbodies, railroads, bridges, culverts, and storm drains on the tract and on adjoining property within 100 feet, and
11. Anticipated date of final platting.
12. Watershed protection overlay districts,
13. Critical areas of watersheds,
14. Class 1 streams,
15. Class 2 streams,
16. Lakes and impoundments,

17. Jurisdictional wetlands,
18. Undisturbed buffer easements,
19. Vegetated setbacks,
20. Construction limits,
21. Stormwater facility easements,
22. Floodplain protection overlay districts,
23. Floodways,
24. Base flood elevation,
25. All Existing and proposed utilities.

**B. Parcel Data.**

1. Existing tract boundaries shown by a heavy line along with all bearings and distances,
2. Total number of lots existing before the proposed subdivision,
3. Legal or deed description of the property,
4. Proposed lot lines with scaled dimensions and lot numbers,
5. Lines showing the different phases of the subdivision, if applicable,
6. Names and property identification numbers of adjoining property owners and subdivisions, both of record and proposed (if known), and
7. Location and size of parcels supporting community services, including but not limited to fire stations, parks, schools, open space areas, etc. and their ownership.

**C. Right-of-Way and Easement Information.**

1. Proposed streets, sidewalks, and pedestrian ways, including vehicular access points, sidewalks, street names, right-of-way widths, pavement widths, centerline curve radii, proposed functional classifications for streets, sight triangle easements and typical cross-sections,
2. Existing streets, sidewalks, and pedestrian ways on subject and adjacent properties, including vehicular access points, sidewalks, right-of-way widths and pavement widths,

3. Proposed and existing utility easements, such as water, sanitary sewer, storm sewer, electric, natural gas, telephone, cable, etc., including labels for easement types and widths,
4. Labeled proposed and existing public and/or private drainage and stormwater controls, including labels for easement types and widths,
5. Proposed and existing buffers, such as undisturbed buffers, vegetative buffers, buffer yards, etc., including labels for easement types and widths, and
6. Proposed open spaces, including labels for easements types and widths, and details.

**D. Site Calculations.**

1. Total acreage of tract,
2. Total number of lots in the subdivision,
3. Net acreage included in lots,
4. Number of lots in each phase,
5. Total acreage of open space, including subtotals for acreage of passive and active open spaces,
6. Total acreage in street rights-of-way, and
7. Total linear footage of each individual street center-line, measured from the center of an intersection through the center of the street to the next intersection.

**E. Zoning-Related Data.**

1. Zoning classification and district lines on the tract and adjoining properties,
2. Building setbacks in table format.

**5.2.3. OTHER REQUIRED FORMS AND PLANS.**

Depending on the type of development, and the timing of development, other plans may be required.

- A. Completed Street Name and Review Confirmation Sheet,
- B. Completed Stormwater Management Plan as required in Articles 4 and 6.1.
- C. Completed Open Space Provision and Maintenance Plan as required in Article 6.510 [new 10], and the location and size of parks, school sites, open space

areas, etc. and their ownership, legal instruments showing dedication of open space to a public entity (if necessary), a copy of restrictive covenants regarding open space. Architectural Elevations, in color.

- D. Tree save calculations within open space (if applicable) as required in Section 11.9.

#### 5.2.4. CONSIDERATIONS FOR APPROVAL.

Approvals of preliminary plats are administrative in nature and Staff recommendations and/or decisions regarding approval of a preliminary plat shall be based on the following:

- A. Whether all applicable information has been submitted confirming that the application adheres to all requirements of this Ordinance; and
- B. Whether the preliminary plat has been prepared in accordance with the standards of this Ordinance; and
- C. The City's ability to provide the proposed development with capacities for utilities, such as wastewater treatment or potable water and other municipal services. Developers are required to install all required utility infrastructure within subdivisions.
- D. Compliance with sStreet connectivity ~~shall meet the~~ requirements of Article Section 10.2.6. [KA4]

#### 5.2.5. APPROVAL PROCESS.

- A. Subdividers shall submit the following to the Planning Department:
  - 1. A completed preliminary plat application,
  - 2. ~~The number of copies~~A digital copy of the preliminary subdivision plat ~~specified in the Manual in pdf form, uploaded to the Plan Review Online Submittal~~ and Access System as detailed on the Planning and Neighborhood Development Department's webpage. Preliminary subdivision plats shall be formatted to meet the size, scale, and content requirements of this subsection,
  - 3. Other required forms and plans listed in subsection (3) above must be submitted as a part of this approval process, and
  - 4. A review fee as specified in the most recent annual Budget Ordinance fee schedule.
- B. The Development Review Committee shall examine the preliminary plat and make a recommendation to the Administrator ~~within the time stated in the schedule adopted by the Development Review Committee (DRC) or in the Manual.~~
- C. Incomplete plats and/or plat applications shall be returned to the applicant and

will not be reviewed by City staff until revised and resubmitted.

- D. The applicant shall revise the proposed plat if necessary in accordance with City staff review comments and upload re-submit the revised copies plat along with any another fees or materials that may be required.
- E. Preliminary subdivision plats that are in accordance with all applicable standards of this Ordinance and the Manual shall be placed on the agenda of the Planning & Zoning Commission, in accordance with the procedures and by-laws of the Commission, approved by the Administrator upon concurrence of the DRC.
- F. Once the Planning & Zoning Commission Administrator has taken action on a preliminary plat, it shall be made a matter of record as follows:
  - 1. The reasons for approval, disapproval, or approval with conditions shall be maintained on file with the Planning and Neighborhood Development Department.
  - 2. Approved plats shall be indexed and filed by Planning.
  - 3. In the event that the preliminary plat is denied, the petitioner may, in accordance with 160D-1403, appeal by filing an action in superior court seeking appropriate declaratory or equitable relief within thirty (30) days from receipt of a written notice as provided by 160D-403(b).
- ~~G. One mylar copy of the preliminary plats approved by the Planning & Zoning Commission shall be submitted to the Planning Department. Copies of mylar plats shall not exceed 30 by 40 inches in size.~~  
~~[KAG]~~
- H. The preliminary plat shall be valid for three years from the date of Planning & Zoning Commission approval. A preliminary plat shall become void if work on furtherance of plat has not commenced within the three-year period and a new application will be required to develop the site. Furtherance of the plat shall be defined as grading or approval of construction plans or erosion and sedimentation control plans. If furtherance of the plat has occurred, the plat will remain valid and in force and may be completed in accordance with the approved plan.
- I. The Administrator may approve an extension of one (1) year for the preliminary plat upon presentation of evidence that the developer is actively working toward furtherance of the plat (such as being involved in the development of or review of construction plan documents). The developer shall request the extension in writing and shall include evidence as required by the Administrator. The Administrator may consult with the Director of Engineering or other members of the DRC as necessary, and shall respond in writing, citing reasons for approval or denial of the extension.

**5.2.6. ALLOWABLE ACTIVITIES WITH A VALID, APPROVED PRELIMINARY SUBDIVISION PLAT.**

- A. Applicants may submit construction plans to the Development Services Planning

and Neighborhood Development Department.

~~B. Applicants may proceed with the preparation of the final plat in accordance with Section 5.3.~~

~~C. Applicants may proceed with site preparation and grading provided that the provisions of the land disturbance article are met and that grading and/or construction plans have been approved.~~

~~D. Applicants may proceed with the installation of required improvements provided that the construction plans are approved in accordance with the provisions of this Ordinance, the Code of the City of Concord, the Concord Technical Standards Manual, and all necessary approvals and permits have received.~~

~~EB.~~ Applicants may enter into contract(s) to sell some or all of the land subject to the preliminary plat provided that all of the requirements of N.C. Gen. Stat. § 160A-375 (b) 160D-807 are met.

**5.2.7. REVISIONS OF THE PRELIMINARY PLAT AFTER PLANNING & ZONING COMMISSION APPROVAL.**

If the preliminary plat is modified after the Planning & Zoning Commission approves it approval, the applicant shall repeat the process in Subsection 5.2 ~~unless the Administrator or his/her designee has been authorized to approve the amendments and approves those amendments.~~ After consultation with the City’s Engineer(s) the Administrator shall be authorized to approve the following amendments:

~~A. Changes in the location, size, or configuration of not more than ten percent (10%) of the number of approved lots, provided that all lots comply with the applicable zoning district and the total number of lots is not increased;~~

~~B. Changes in the location, size, or configuration of open space equivalent to not more than ten percent (10%) of the approved gross open space acreage, provided that the percentage of the subdivision gross land area in open space is not reduced; or~~

~~C. Changes in the location or configuration of proposed streets equivalent to not more than ten percent (10%) of the approved total street length, provided that the number of external access points is not decreased and the minimum street connectivity ratios are maintained.~~

~~D. Changes to infrastructure and utility design shall may be approved through the construction plan approval process in 5.6.~~

## 5.3. FINAL PLATS

### 5.3.1. SIZE AND SCALE.

Final plats must meet the size requirements of NCGS § 47-30 and the Cabarrus County Register of Deeds: 18"x24" or may be filed electronically at such time as authorized by Cabarrus County and the City of Concord. Final plats shall be prepared at a standard scale for which one (1) inch equals a distance of one hundred (100) feet or less, such as twenty (20), thirty (30), forty (40), fifty (50), or sixty (60) feet.

### 5.3.2. CONTENTS.

All final plats are subject to mapping requirement of NCGS § 47-30. All the contents required for final plats shall show sufficient data to readily determine and accurately reproduce (on the ground) the location, bearing, and length of every boundary, line, right-of-way, and easement (including the radius and other data for curved lines), to an appropriate accuracy, and in conformance with good surveying practice.

#### A. General Information.

1. Plat title,
2. Revision number,
3. Legend,
4. Vicinity map depicting the location of the subdivision relative to the municipal limits and the surrounding area,
5. Surveyed boundaries of wetlands, floodways, and one-hundred-year floodplains, and
6. Existing and proposed waterbodies, railroads, bridges, culverts, and storm drains on the tract and on adjoining property within 100 feet.

#### B. Parcel Data.

1. Existing tract boundaries shown by a heavy line along with all bearings and distances,
2. Legal or deed description of the property may be submitted in a separate document),
3. Proposed lot lines with scaled dimensions, bearings, and lot numbers,
4. Lines showing the different phases of the subdivision, if applicable,
5. Names and property identification numbers of adjoining property owners and subdivisions, both of record and proposed (if known),

6. Location and size of parcels supporting community services, including but not limited to fire stations, parks, schools, open space areas, etc. and their ownership,

**C. Right-of-Way and Easement Information.**

1. Proposed and existing streets, sidewalks, and pedestrian right-of-ways and easements, including street names and right-of-way widths on subject and adjacent properties,
2. Site triangle easements meeting the standards shown in the *Manual*,
3. Proposed and existing utility easements, such as water, sanitary sewer, storm sewer, electric, natural gas, telephone, cable, etc., including labels for easement types and widths,
4. Labeled proposed and existing public and/or private drainage and stormwater controls, including labels for easement types and widths,
5. Proposed and existing buffers, such as undisturbed buffers, vegetative buffers, buffer yards, etc., including labels for easement types and widths, and
6. Proposed open spaces, including labels for easement types and widths.

**D. Site Calculations.**

1. Total acreage of tract,
2. Total number of lots existing before the subdivision,
3. Total number of lots in the subdivision,
4. Net acreage included in lots,
5. Number of lots in each phase,
6. Total acreage of open space, including subtotals for acreage of passive and active open spaces,
7. Impervious surface area, given in square feet,
8. Proposed utility dedications in linear feet,
9. Total acreage in street rights-of-way, and
10. Total linear footage of each individual street center-line, measured from the center of an intersection through the center of the street to the next intersection.



I, \_\_\_\_\_, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book \_\_\_\_\_, Page \_\_\_\_\_, Book \_\_\_\_\_, Page \_\_\_\_\_, etc.) (other); that the error of closure as calculated by latitudes and departures is 1: \_\_\_\_\_; that the boundaries not surveyed are shown as broken lines plotted from information found in Book \_\_\_\_\_, Page \_\_\_\_\_, that this map was prepared in accordance with General Statute § 47-30 as amended.

Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 20\_\_\_\_\_.

\_\_\_\_\_  
Surveyor License or Registration Number

**3. Certificate of Final Plat Approval.**

I hereby certify that this plat is in compliance with the City of Concord Code of Ordinances. This final plat for the \_\_\_\_\_ Subdivision was approved by the ~~Concord Planning & Zoning Commission~~ Administrator with the concurrence of the Development Review Committee at their meeting on \_\_\_\_\_, 2\_\_\_\_.

\_\_\_\_\_  
Date \_\_\_\_\_ Planning and Neighborhood Services Director or Designee

**4. Certificate of Acceptance of Offer of Dedication.**

I hereby certify that the City Council accepted the offers of dedication shown on this plat by resolution at a meeting of the City Council held on \_\_\_\_\_, 2\_\_\_\_.

\_\_\_\_\_  
Date \_\_\_\_\_ City Clerk

**5. Plat Review Officer Certificate (as required by NCGS § 47-30.2).**

State of North Carolina  
County of Cabarrus

I, \_\_\_\_\_, Review Officer of Cabarrus County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

\_\_\_\_\_  
Review Officer \_\_\_\_\_ Date

**G. Additional Certificates Required on Final Plats for Major Subdivisions.** The following certificates shall be provided and signed as indicated by the signature title.

1. CERTIFICATE OF CONFORMITY WITH PLANS AND SPECIFICATIONS

CITY OF CONCORD

\_\_\_\_\_  
NAME OF SUBDIVISION

\_\_\_\_\_  
NAME OF STREETS IN SUBDIVISION

\_\_\_\_\_  
SUBDIVIDER

I hereby, to the best of my knowledge, and belief, that all street, storm drainage, water and sewer work to be performed on this subdivision has been checked by me or my authorized representative and conforms with lines, grades, cross-sections, dimensions, and material requirements which are shown on and indicated in the plans which have been reviewed and approved by the Concord Subdivision Administrator or the North Carolina Department of Transportation.

I also acknowledge that falsification of the above certifications may subject me to civil suit and/or criminal prosecution under the General Statutes, including but not limited to, G.S. 14-100 and G.S. 136-102.6 and the Code of Ordinances of the City of Concord.

Signed:

\_\_\_\_\_  
REGISTERED PROFESSIONAL ENGINEER

\_\_\_\_\_  
REGISTRATION NO.                      DATE

NORTH CAROLINA  
CABARRUS COUNTY

I, \_\_\_\_\_, a notary public for said county and state, do hereby certify that \_\_\_\_\_ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

2. **Certificate of Streets, Water, and Sewer System Approval and Other Improvements.**

I hereby certify that all publically maintained streets, storm drainage systems, water and sewer systems and other publically maintained improvements and any privately maintained water quality “Best Management Practice” shown on this plat have been designed and installed, or their installation guaranteed, in an acceptable manner and according to specification and standards of Concord and the State of North Carolina.

\_\_\_\_\_

\_\_\_\_\_ Director of Engineering

**H. Additional Certificate Required on Final Plats for Exempt Subdivisions. The following certificate shall be provided and signed as indicated by the signature title.**

**1. CERTIFICATE OF EXEMPTION PLAT APPROVAL**

I hereby certify that the proposed subdivision is exempt from the City of Concord subdivision ordinance and that the resulting lots meet the minimum standards of the Concord Development Ordinance.

\_\_\_\_\_

\_\_\_\_\_ Director of Planning and Neighborhood Development or Designee

### 5.3.3. CONSIDERATIONS FOR APPROVAL

- A. No final plat for a major subdivision shall be approved until:
  - 1. A preliminary plat for the property has been prepared and approved in accordance with Subsection 5.2,
  - 2. Construction plans have been approved in accordance with Section 5.6.5, and
  - 3. All applicable permits and encroachments, including but not limited to those required for infrastructure extensions and driveway connections to streets, have been received.
- B. If a preliminary plat is approved subject to conditions or labeling corrections, the final plat shall not be approved until a corrected copy of the preliminary plat has been filed with the Development Services Planning and Neighborhood Development Department.
- C. Minor variations between the preliminary plat and subsequent final plat(s) are permissible ~~as set forth in Section 5.2.7.~~, but ~~The the~~ Administrator / Development Review Committee may require the applicant to revise the preliminary plat and re-submit it to the Planning & Zoning Commission for approval if a construction drawings or a subsequent final plat does not adequately match the approved preliminary plat.
- D. Completion of all required public improvements shown on the City of Concord approved preliminary plat and construction plans, or posting of a performance security in accordance with 5.7.4.6, the Construction section below, and offering a dedication of the improvements to the City.

### 5.3.4 APPROVAL PROCESS.

- A. A digital copy of the final subdivision plat in pdf form, uploaded to the Plan Review Online Submittal and Access System as detailed on the Planning and Neighborhood Development Department's webpage. ~~The number of Two~~ copies of the final plat ~~specified in the Manual~~ shall be submitted to the Development Services Planning and Neighborhood Development Department after construction plans have been approved in accordance with Sec. 5.6.5. Additionally, all other required forms and plans listed in this subsection shall be submitted.
- B. The appropriate Development Review Committee shall conduct a technical review of the final plat within the time specified in the Manual.
- C. ~~Final plats offering property d~~ Dedication(s) of property to the City shall be reviewed considered by the City Council for acceptance of dedication and maintenance. ~~Only the City Council may accept dedications of property [K.A.10].~~
- D. In the event that the final plat is denied, the petitioner may, in accordance with 160D-1403, appeal by filing an action in superior court seeking appropriate

[declaratory or equitable relief within thirty \(30\) days from receipt of a written notice as provided by 160D-403\(b\).](#)

### 5.3.5. ALLOWABLE ACTIVITIES WITH A VALID, APPROVED FINAL PLAT.

Sale or transfer of ownership of lots or parcels of land by reference to a plat of a subdivision PROVIDED THAT such plat has been duly recorded with the Register of Deeds. Final plats not recorded within thirty (30) days of approval are null and void. [A s](#)Subdivider may obtain building permits, zoning compliance permits, and certificates of occupancy.

### 5.3.6. RECORDATION.

- A. **Plats Not Approved by the City.** No final plat shall be recorded with the Cabarrus County Register of Deeds until the City has approved it in accordance with the provisions of this [A](#)article.
- B. **Plats Approved by the City.** All final plats approved by the City in accordance with the provisions of this article shall be recorded with the Cabarrus County Register of Deeds.
- C. **Recorded Plats.** ~~Recorded plats shall be submitted to the City.~~ A true original mylar plat as certified by the Register of Deeds must be returned to the [City Planning and Neighborhood Development Department](#) within 24 hours of recordation. Such plat must show the date and time of recordation, the map book and page number, and the signature of the Register of Deeds official.

## 5.4. SITE PLAN-CONTROLLED DEVELOPMENT

### 5.4.1. PURPOSE.

The purpose of this Section is to ensure that ~~higher density residential and non-residential developments, including structures, utilities, streets, parking, buffers, and open space receive a more detailed review~~ proposed site plan-controlled development provide adequate information to ensure constructability and compliance with City regulations. ~~In general, these developments are reviewed and approved twice, once by the staff Administrator and then by the Planning & Zoning Commission and/or City Council. These developments are either approved administratively, or are approved in conjunction with a site-plan controlled zoning petition, such as a Planned Unit Development or a conditional district petition, or in conjunction with a Special Use Permit application.~~ In<sup>[KA11]</sup> addition, site development review considers the siting of structures and related site improvements to promote harmonious relationships with adjacent developments.

### 5.4.2. APPLICABILITY.

~~There are a range of details that may be associated with a conditional zoning: from a “bubble plan” to a more fully designed site plan. The remainder of this subsection outlines the requirements for a variety of levels of details. A site plan designed to the standards below is required to be submitted along with an application for a conditional district rezoning or special use permit. For plans submitted with a lesser degree of detailing, the Planning and Zoning Commission may condition approval on a second hearing to attach a more detailed site plan to the site with applicant consent. Site-plan controlled developments involving residential subdivisions, may also be designed to preliminary plat standards for rezoning hearing. No person shall develop, grade, or construct buildings or structures for any site development without making an application for, and receiving approval of, a site plan and complying fully with the provisions of this ordinance and all other state and local laws and regulations. Different kinds of site developments are reviewed and approved by different bodies. The kinds of development each body approves are listed in Table 5.2.~~

**TABLE 5.2 Types of Site Development and their Approving Bodies**<sup>[KA12]</sup>

When Required	Review and Approval Process	Approved by:
<del>Non-residential developments, any multi-family development</del>	<del>Site Plan</del>	<del>Administrator upon the recommendation of the Development Review Committee</del>
<del>Conditional district <del>non-residential</del> zoning amendments, special use permits <del>non-residential structures greater than 100,000</del></del>	<del>(1) First Review / Approval of Proposed Site Plan</del>	<del>Planning &amp; Zoning Commission</del>

<p><del>square feet or major subdivisions, Planned Unit Development (PUD), Traditional Neighborhood Development (TND), Transit-Oriented Development (TOD), or Mixed Use (MX) Development, applications for rezoning to a conditional district.</del></p>	<p>(2) <del>Final Review / Approval of Site Plan</del> <u>Technical Site Plan (prepared in accordance with Section 5.6)</u></p>	<p>Administrator upon the recommendation of the Development Review Committee</p>
--	---	--

5.4.3. SITE PLANS.

- A. **Size and Scale.** No specific size requirements apply to site plans. Site plans shall be prepared at a standard scale for which one (1) inch equals a distance of twenty (20), thirty (30), forty (40), fifty (50), or sixty (60) feet.
- B. **Contents.** Site plans shall depict or contain the information set forth below:
- C. **~~General Information~~ Minimum Requirements for All Site Plans.**

- ~~1. Title,~~
- ~~2. Development Name~~
- ~~3. Developer and Engineer Contact Information~~
- ~~4. Scale~~
- ~~5. A boundary survey and vicinity map showing the property's total acreage, existing and proposed zoning classification(s), location in relationship to major streets, railroads, the date, and a north arrow;~~
- ~~6. Zoning classification and district lines on the site and adjoining properties,~~
- ~~7. Building setbacks.~~
- ~~8. All existing easements, reservations, and rights-of-way;~~
- ~~9. Existing and proposed points of access to public streets and to adjacent property~~
- ~~10. Location of 100 year floodplains and location of proposed stream buffers as specified in Article 4~~
- ~~11. General parking and circulation plans~~
- ~~12. Additional data and information as specified in Article 9, if applicable~~
- ~~13. Existing tract boundaries shown by a heavy line along with all bearings and distances,~~
- ~~14. 2. Legal or deed description of the property,~~
- ~~3. Proposed lot lines with scaled dimensions and lot numbers,~~
- ~~4. Lines showing the different phases of the subdivision, if applicable,~~
- ~~5. Names and property identification numbers of adjoining property owners and subdivisions, both of record and proposed (if known.) ,~~
- ~~6. Location and size of parcels supporting community services, including but not limited to fire stations, parks, schools, open space areas, etc. and their ownership,~~
- ~~15.~~
- ~~214.~~ Revision number and date,
- ~~315.~~ Legend,
- ~~4. Vicinity map depicting the location of the subdivision relative to the municipal limits and the surrounding area,~~

- 516. Existing topography with a minimum four-foot contour interval,
- 617. Boundaries of wetlands, floodways, and one-hundred-year floodplains (These boundaries shall be surveyed in the final site plan.), Base Flood Elevations, watershed protection overlay districts, critical areas of watersheds, Class 1 streams, Class 2 streams, lakes and impoundments, jurisdictional wetlands, stream buffers,

~~7. Memo describing stream channels as delineated on site with copies of the Cabarrus County Soil Survey and the applicable 1:24,000 USGS Quadrangle, [SS12]~~

- ~~16.~~ 8. Existing and proposed areas for structures,
  - a. Elevations, if known, or precedent imagery  
Proposed use of all land and structures including the number of residential units and square footage of nonresidential development;
  - b.
- 915. Existing and proposed impervious surface area and/or limit, given in square feet,
- 4016. Existing and proposed waterbodies, railroads, bridges, culverts, and storm drains on the tract and on adjoining property within 100 feet, and
- 4417. Anticipated date of final platting, if relevant.

~~1218. Watershed protection overlay districts,~~

~~13. Critical areas of watersheds,~~

~~14. Class 1 streams,~~

~~15. Class 2 streams,~~

~~16. Lakes and impoundments,~~

~~17. Jurisdictional wetlands, [SS14]~~

~~18. Proposed and required screening and landscaping as specified in Article 11;~~

~~a. Undisturbed buffer easements,~~

~~19. b. Vegetated setbacks,~~

~~c. Details~~

~~d. Any proposed tree save areas~~

D. Additional Details that may be provided by the applicant or required by Staff or the Planning and Zoning Commission.

The list of details below is not designed to be all-inclusive, but rather to serve as examples that may be required in the evaluation of a site plan-controlled rezoning or special use permit request.

- ~~201.~~ Construction limits,
- ~~242.~~ Stormwater facility easements,
- ~~223.~~ ~~\_\_\_\_\_ Floodplain protection overlay districts,~~
- ~~23.~~ ~~\_\_\_\_\_ Floodways,~~
- ~~24.~~ ~~\_\_\_\_\_ Base flood elevation, [SS15]~~
- ~~25.~~ \_\_\_\_\_ All existing and proposed utilities.

~~264.~~ All proposed utility connections.

- ~~5.~~ ~~Proposed lot lines with scaled dimensions and lot numbers,~~
- ~~6.~~ ~~Lines showing the different phases of the subdivision, if applicable,~~
- ~~7.~~ ~~Location and size of parcels supporting community services, including but not limited to fire stations, parks, schools, open space areas, etc. and their ownership,~~

~~8.~~ \_\_\_\_\_

~~D.~~ ~~Parcel Data.~~

- ~~1.~~ ~~Existing tract boundaries shown by a heavy line along with all bearings and distances,~~
- ~~2.~~ ~~Legal or deed description of the property,~~
- ~~3.~~ ~~Proposed lot lines with scaled dimensions and lot numbers,~~
- ~~4.~~ ~~Lines showing the different phases of the subdivision, if applicable,~~
- ~~5.~~ ~~Names and property identification numbers of adjoining property owners and subdivisions, both of record and proposed (if known.)~~
- ~~6.~~ ~~Location and size of parcels supporting community services, including but not limited to fire stations, parks, schools, open space areas, etc. and their ownership,~~

~~E.~~ ~~Right-of-Way and Easement Information.~~

- ~~4.~~ \_\_\_\_\_ Proposed streets, sidewalks, and pedestrian ways, including vehicular access points, sidewalks, street names, right-of-way widths, pavement widths, centerline curve radii, site triangles at intersections, proposed functional classifications for streets, and typical cross-sections,
- ~~9.~~ \_\_\_\_\_
- ~~2.~~ \_\_\_\_\_ Existing streets, sidewalks, and pedestrian ways on subject and adjacent properties, including vehicular access points, sidewalks, right-of-way widths and pavement widths,

~~10.~~

~~3.~~ Proposed and existing utility easements, such as water, sanitary sewer, storm sewer, electric, natural gas, telephone, cable, etc., including labels for easement types and widths,

~~11.~~

~~4.~~ Labeled proposed and existing drainage and stormwater controls, including labels for easement types and widths,

~~512.~~ Proposed and existing buffers, such as undisturbed buffers, vegetative buffers, buffer yards, etc., including labels for buffer easement types and widths, and

~~613.~~ Proposed open spaces, including labels for easements types and widths.

~~14~~

~~7.~~ For PUD, TND, TOD or MX districts and conditional uses, total acreage of open space, including subtotals for acreage of passive and active open spaces.

~~F. Zoning-Related Data.~~

~~1.~~ Zoning classification and district lines on the site and adjoining properties, and

~~2.~~ Building setbacks.

~~15.~~ Memo describing stream channels as delineated on-site with copies of the Cabarrus County Soil Survey and the applicable 1:24,000 USGS Quadrangle.<sup>[SS16]</sup>

~~16.~~ Traffic Impact Analysis (TIA) in accordance with Chapter 52 of the City Code of Ordinances, and Article 8 of the Technical Standards Manual (TSM).

~~17.~~ Fire and Life Safety Plan that includes fire apparatus turning overlay, hydrant locations, and hose pull lengths.

~~18.~~ Maximum proposed building height.

~~19.~~ Construction type and materials

~~20.~~ Size of largest building

~~21.~~ Additional plans, such as acoustical study, illumination/light impact study, if required by the administrator.

~~22.~~ Additional site details: trash enclosure locations, mailbox clusters, bus shelters, transit stops, loading spaces, typical lot detail.

~~G. Certificates. The following certificates shall be provided and signed as indicated by<sup>[KA17]</sup> the signature title.~~

~~1. Certificate of Site Plan Approval. Upon approval of the site plan by the appropriate person or body, the applicable certificate below shall be signed on each copy of the plan reflecting such approval:~~

~~2. For PUD, TND, TOD or MX Districts, and Conditional Uses.~~

I hereby certify that the City of Concord Planning & Zoning Commission on \_\_\_\_\_ duly approved this site plan and that this plan is in conformity therein.

\_\_\_\_\_  
Date — Development Services Director

~~3. For all other Site Plans. By authority of the City of Concord Development Regulations, this site plan is hereby approved.~~

\_\_\_\_\_  
Date — Development Services Director

\_\_\_\_\_  
Date — Director of Engineering

~~5.4.4. OTHER REQUIRED FORMS AND PLANS~~

~~Depending on the type of development, and the timing of development, other plans may be required.~~

~~A. \_\_\_\_\_ Completed Street Name and Review Confirmation Sheet [KA18],~~

~~B. \_\_\_\_\_ Completed Stormwater Management Plan as required in Article 4,~~

~~\_\_\_\_\_ C. \_\_\_\_\_ Completed Open Space Provision and Maintenance Plan as required in Article 10 6.5 (new IV), and the location and size of parks, school sites, open space areas, etc. and their ownership, legal instruments showing dedication of open space to a public entity (if necessary), a copy of restrictive covenants regarding open space.~~

~~D. \_\_\_\_\_ Completed Architectural Plans in accordance with Article 7 [KA19].~~

~~E. \_\_\_\_\_ Fire and Life Safety Department Confirmation of Acknowledgement and Acceptance,~~

~~F. \_\_\_\_\_ Electric Systems Load Data Sheet,~~

~~G. \_\_\_\_\_ Underground Electric Service Installation Agreement,~~

~~H. \_\_\_\_\_ Address request form and layout plan,~~

~~I. \_\_\_\_\_ Completed water and sewer permit applications in accordance with Chapter 62 Article III,~~

~~J. \_\_\_\_\_ Contract for Utility Service, and~~

~~K. \_\_\_\_\_ Stormwater Replacement Protection Easement and Access Maintenance Agreement in accordance with Sec. 4.4.6.C.~~

~~L. \_\_\_\_\_ Driveway permits.~~

~~M. Completed Traffic Impact Study Analysis (TIAS) in accordance with Chapter 52 of the City Code of Ordinances, and Article 8 of the Technical Standards Manual (TSM).;~~

~~N. Additional plans, such as acoustical study, illumination/light impact study, if required by the administrator.~~

#### 5.4.5. CONSIDERATIONS FOR APPROVAL.

Recommendations and decisions regarding the approval of a site development plan shall be based on the following:

- A. Whether all applicable information has been submitted confirming that the application adheres to all requirements of this Ordinance; and
- B. Whether the site plan has been prepared in accordance with the standards of this Ordinance; and
- C. The City's ability to support the proposed development with utilities and other municipal services.
- ~~D. CDO standards for special use permits or rezoning applications as applicable. ;~~  
~~and~~

~~D. All necessary state, local, federal permits or approval.~~

#### 5.4.6. APPROVAL PROCESS<sup>[KA20]</sup>.

A. Developers shall submit the following to the [Development Services Planning and Neighborhood Development](#) Department:

- ~~1. A completed site plan application unless the plan is to be reviewed concurrently with a site plan controlled zoning district application, or with a special use permit application, a site plan adhering to the requirements set forth in this section (5.4), and any supplemental documentation that may be required by City Staff or the Planning and Zoning Commission. ;~~
2. ~~A digital copy of the final subdivision plat in pdf form, uploaded to the Plan Review Online Submittal and Access System as detailed on the Planning and Neighborhood Development Department's webpage. The number of copies of the completed site plan specified in the Manual. Preliminary subdivision plats shall meet the size, scale, and content requirements of this subsection bearing a signed Certificate of Ownership and Dedication,~~
- ~~3. Other required forms and plans listed in subsection (3) above must be submitted as a part of this approval process, and<sup>[KA21]</sup>~~
4. ~~A review fee as specified in the most recent annual Budget Ordinance ; unless the plan is submitted as an attachment to for a site plan controlled zoning district application, or with or a special use permit.~~

~~5. Other Required Forms and Plans. Other required forms and plans listed in this subsection Section 5.4.4.~~

~~6.3. Digital Information. A digital vector file of all impervious surfaces using the [KA22] coordinate system specified in the Manual or alternatively, a spreadsheet listing each impervious surface as specified in the Manual, and~~

~~7. Fee. A review fee as specified in the most recent annual Budget Ordinance fee schedule.~~

B. The Development Review Committee shall review the site plan and make a recommendation to the Administrator ~~within the time stated in the schedule adopted by the DRC or in the Manual.~~

C. Incomplete site plans shall be returned to the developer and will not be reviewed by City staff until revised and resubmitted.

D. The developer shall revise the proposed site plan if necessary, in accordance with review comments and re-submit ~~revised copies~~ the revised plan along with any other materials that may be required.

~~E. The site plan shall be considered by the Planning and Zoning Commission, and, if necessary, City Council or Board of Adjustment, in accordance with the CDO standards regarding conditional district zonings or special use permits and appeals.~~

#### 5.4.7. RECORD OF APPROVAL.

A. For Special User Permits, PUD, TND, TOD, or MX Districts and all Conditional-Uses district or site-plan controlled zonings [KA23], ~~t.~~ The Administrator shall present site plans that have been approved by City staff to the Planning & Zoning Commission. Once the Planning & Zoning Commission has taken action on the zoning petition or special use permit application and the corresponding site plan, it shall be made a matter of record as follows:

~~1. [KA24]. The reasons for approval, disapproval, or approval with conditions shall be maintained on file with Development Services.~~

2. Approved site plans shall be indexed and filed by Development Services.

~~B. For All Other Site Plans. Site plans that have been approved by City staff shall be made a matter of record as follows:~~

~~1. The reasons for approval, disapproval, or approval with conditions shall be maintained on file with Development Services.~~

~~C. Approved site plans shall be indexed and filed by Development Services.~~

~~D. The site plan shall be valid for two years from the date of approval~~

#### 5.4.8. EXPIRATION of APPROVAL

- A. ~~SITE PLAN approval expires automatically and simultaneously with the expiration of the zoning clearance permit. S submitted in conjunction with a conditional district zoning application or special use permit do not expire, but may require amendment if thresholds set forth in the CDO are exceeded.~~

#### 5.4.9. ALLOWABLE ACTIVITIES WITH A VALID, APPROVED SITE PLAN.

- ~~A. Developers may proceed with the preparation of the final plat in accordance with Section 5.4 if dedication of public easement or right-of-way is required.~~
- BA. Developers may submit a preliminary plat and/or construction plans to the Development Services Department.

~~C. Developers may proceed with site preparation and grading provided that the provisions of the land disturbance article are met and that both grading plans have been approved in accordance with Article 4, and/or construction plans in accordance with § 5.6 below.~~

- ~~D. Developers may proceed with the installation of required improvements provided that the construction plans are approved in accordance with the provisions of this Ordinance, the Code of the City of Concord, the Concord Technical Standards Manual, and all other necessary state, local and federal approvals and permits.~~

#### 5.4.10. REVISIONS OF SITE PLANS AFTER APPROVAL.

If the site plan is modified after the Planning & Zoning Commission approves it, the applicant shall repeat the process in Subsection 5.4 unless the Administrator or his/her designee has been authorized to approve the amendments and approves those amendments. After consultation with the Development Review Committee, the Administrator shall be authorized to approve the following amendments:

- A. Changes in the location, size, or configuration of not more than ten percent (10%) of the total gross square floor area of approved buildings, up to 50,000 square feet, provided that all buildings comply with the requirements of this ordinance and the total number of lots is not increased;
- B. Changes in the location, size, or configuration of open space equivalent to not more than ten percent (10%) of the approved gross open space acreage, provided that the percentage of the subdivision gross land area in open space is not reduced; or
- C. Changes in the location or configuration of proposed streets, driveways and/or parking lots equivalent to not more than ten percent (10%) of the approved total street length, or parking lot area, provided that the number of external access points is not decreased and the minimum street connectivity ratios are maintained.

- D. Changes to infrastructure and utility design shall be approved through the construction plan approval process in 5.6.
- E. If a detailed site plan is not submitted as a component of a conditional district rezoning, City Staff is authorized to approve preliminary plats and construction drawings that adhere to conditions and development standards set forth by the zoning approval. If a detailed site plan is submitted, City Staff is limited to approving variations that do not exceed the thresholds in this subsection (5.4.10) and subsection 3.2.8.I. The Planning and Zoning Commission or City Council may establish that a non-detailed site plan is subject to re-hearing as a condition of the rezoning petition if the applicant consents.

## 5.5. LOT STANDARDS<sup>[SS25]</sup><sup>[SS26]</sup>

### 5.5.1. PURPOSE.

This Section establishes standards to guide the design and review of proposed developments, involving the layout or development of lots and their relationship to streets and other public facilities. Lot size and density shall be determined based on the current zoning district of the development as provided in [Table 5-5-4](#) [Articles 7 and 9](#). Lots shall meet or exceed zoning district standards and shall be designed for their potential uses, so that adequate buildable area is provided along with adequate room for required setbacks (see Article 7, Table 7.7-1.) and buffer yards [as applicable](#) (see Article [711](#)).

### 5.5.2. APPLICABILITY.

The provisions of this subsection shall apply to any newly created or proposed lot or parcel resulting from a subdivision of land as provided for in this Article.

### 5.5.3. ACCESS.

- A. Every lot resulting from a subdivision of land as provided for in this Article shall abut and have direct access to a publicly maintained street or other public right-of-way legally dedicated, except as provided below.
- B. **Exceptions.**
  - 1. Parcels within nonresidential subdivisions [and developments](#), provided that adequate paved access is available for emergency and public safety vehicles and access;
  - ~~1.~~ 2. Town home lots where the individual lots are separated from a public right-of-way by a strip of land under common ownership by the owners of the town home lots;
  - 2. [Lots with vehicular access to privately maintained alleys, created within the provisions of this Ordinance](#); and
  - 3. Lots fronting on approved private streets.
- C. **Street Frontage.** Lots shall be designed with adequate frontage for the purpose of providing direct physical access to the property from public streets for vehicles and utilities and for public safety equipment. For proposed subdivisions with frontage on a thoroughfare street, the maximum number of lots to be created shall be limited to five (5) lots. Any proposed subdivision proposing more than five lots shall require the additional lots to be served by a newly constructed internal public street.
- D. **Restrictions on Block and Cul-de-sac Lengths.** The purpose of this subsection is to discourage long blocks lined with homes and other buildings, which reduces street connectivity and diminishes the efficiency of public and safety services, while increasing distances between residences and non-residential destinations or public gathering places. In the AG, RE, I-1, and

I-2 zoning districts there shall be no maximum block length. In all other zoning districts, the maximum length of any blocks shall be as stated in Section 10.1.3. Cul-de-sac lengths shall be as stated in the Manual. Block length shall be measured from the centerline of an intersecting street to the centerline of the next intersecting street or the center point of the terminus of the street.

#### 5.5.4. GENERAL EXCEPTIONS FOR CERTAIN KINDS OF LOTS.

- A. **Corner Lots.** Side lot lines of lots abutting a public or private right-of-way shall (to the extent practicable) run at right angles to the right-of-way line, or in the case of cul-de-sacs or curvilinear street rights-of-way, radial to the curve.
- B. **Cul-de-Sac Lots.** A lot located on a cul-de-sac that does not maintain the minimum required width along the public street frontage shall provide:
  - 1. Lot frontage of at least 50 percent of the minimum required, but in no case less than 25 feet, whichever is greater;
  - 2. Lot area equal to or greater than the minimum lot area (if one is specified); and
  - 3. The minimum required lot width at the actual front setback of the primary structure and not necessarily at the minimum front setback set forth in this Ordinance.
- C. **FLAG LOTS.**
  - 1. **Justification for Flag Lots.** Upon recommendation of the DRC, the Administrator may approve flag lots if evidence is provided that physical hardships prevent development of land using conventional lot design and all other provisions of this ordinance are met.
  - 2. **Minimum Pole Widths.** The minimum width of the "pole" portion of a flag lot shall be twenty-two (22) feet for residential lots and thirty (30) feet for non-residential lots. The "pole" portion of the lot shall have maximum length not to exceed 250 feet<sup>[KA27]</sup>.

#### 5.5.5. OPEN SPACES.

Dedicated open space shall comply with the requirements of this Ordinance in addition to the standards set forth [herein. Articles 4 and 6.5 \[new Article 10\] in Article 10.](#)

#### 5.5.6. PERIMETER BUFFER YARD FOR RESIDENTIAL SUBDIVISIONS (THESE STANDARDS SHALL APPLY TO MAJOR SUBDIVISIONS ONLY).

- A. A buffer yard shall be required along the perimeter of a residential subdivision in order to separate residential lots from:
  - 1. Abutting a thoroughfare; and

2. Abutting non-residential uses.
  - B. The buffer yard for abutting non-residential uses shall be designed and landscaped per Article 11 of this Ordinance. The buffer yard for abutting a thoroughfare shall be a Type D buffer as set forth in ~~Table 9.4-2~~ Article 11 of this Ordinance.
  - C. All required buffer yards shall be platted as common areas and may be included as “open space” subject to the standards and criteria as set forth in ~~§ 6.5 of this Ordinance~~ Articles 10 and 11.

## 5.6. CONSTRUCTION PLANS

### 5.6.1. PURPOSE.

The Purpose of this Section is to ensure that any development involving new building, parking, landscaping, utilities, buffers, etc. is done in accordance with all applicable City and State codes and standards.

### 5.6.2. APPLICABILITY.

No person shall develop, grade, or construct buildings or structures or extend or modify any infrastructure related to any subdivision or site development without making an application for, and receiving approval of, a site plan or subdivision plat and complying fully with the provisions of this ordinance and all other state and local laws and regulations.

### 5.6.3. SIZE AND SCALE.

Construction plans shall be prepared ~~on 24-inch by 36-inch white paper~~ at a horizontal scale of one (1) inch equals a distance of forty (40) feet and a vertical scale of one (1) inch equals a distance of four (4) feet.

### 5.6.4. CONTENTS.

Construction plans shall depict all drawings and specifications needed to result in the construction of improvements required by the Code of the City of Concord and Concord

Technical Standards Manual as adopted by the City. At a minimum, construction plans shall legibly depict or contain the information set forth below.

**A. General Information.**

1. Development name,
2. Developer and engineer contact information,
3. Distinct title and number for each sheet,
4. Revision number(s) and date(s),
5. Scale,
6. North arrow,
7. Legend,
8. Vicinity map depicting the location of the development relative to the municipal limits and the surrounding area,
9. Licensed professional's seal and signature as required by NC General Statutes,
10. Elevation control markers and monuments,
11. Existing topography with a minimum four-foot contour interval,
12. Labeled boundaries of waterbodies, wetlands, floodways, and one-hundred-year floodplains
13. Existing and proposed impervious surface areas, given in square feet,
14. All existing and proposed wells, railroads, bridges, culverts, storm drains, and natural features on within 200 feet of the development, and
15. Lines showing the different phases of the development, if applicable.
16. Memo describing stream channels as delineated onsite with copies of the Cabarrus County Soil Survey and the applicable 1:24,000 USGS Quadragle
17. Existing and proposed structures.
18. Construction limits
19. Anticipated date of final platting (if applicable)
20. Proposed lot lines with scaled dimensions and lot numbers (if applicable)

21. Size of largest building
22. Fire apparatus turning radius overlay
23. Solid waste turning radius overlay
24. Height of tallest building
25. Building materials and construction style
26. Related zoning and preliminary plat case numbers (if applicable)
27. Zoning conditions (if applicable)

**B. Parcel Data.**

1. Names and property identification numbers of adjoining property owners and subdivisions and/or other developments, both of record and proposed, if known, and
2. Location and size of parcels supporting community services, such as parks, schools, open space areas, etc. and their ownership (if any are located in the site planned development).<sub>2</sub>
3. Existing tract boundaries shown by a heavy line along with all bearings and distances
4. Existing and proposed easement locations. <sub>3</sub>

**C. Utility and Drainage Information.**

1. Utility location service contact information,  
2
2. Sheet(s) containing both plan views of all proposed waterlines  
with a center-of-pipe profile of all waterlines with diameters greater than twelve (12) inches at a scale of one inch to forty feet,
3. Sheet(s) containing both plan views of all proposed sanitary sewer lines with a center-of-pipe profile of all proposed sanitary sewer lines at a scale of one inch to forty feet horizontal and one inch equals four feet vertical,
4. Sheet(s) containing both plan views of all proposed stormwater pipes and channels with a center-of-pipe/channel profile of all proposed stormwater pipes and channels at a scale of one inch to forty feet horizontal and one inch equals four feet vertical,
5. And at each crossing of another utility,

6. Existing utilities on and within 100 feet of the development,
7. Note referencing Chapter 62 of the Code of the City of Concord, the WSACC Standard Specifications, and State requirements,
8. Waterline stationing,
9. Sanitary sewer line stationing,
10. Sanitary sewer invert elevations and slopes,
11. Manhole diameters, and
12. Sufficient details.

**D. Transportation Information.**

1. Proposed street names and State road numbers,
2. Proposed street stationing,
3. Sheet(s) containing both plan views of all proposed streets with a center-of-street profile of all proposed streets, and
4. Traffic control devices.
5. Ramps required by the Americans with Disabilities Act (ADA).

**E. Right-of-Way and Easement Information.**

1. Proposed streets, sidewalks, and pedestrian ways, including street names, right-of-way widths, vehicular access points, sidewalks, pavement widths, centerline curve radii, proposed functional classifications for streets, typical cross-sections, sight triangles, street centerline stationing.
2. Existing streets, sidewalks, and pedestrian ways on subject and adjacent properties, including right-of-way widths, vehicular access points, sidewalks, pavement widths, center-line distance of each street measured from the center of intersection to the next intersection and centerline curve radii,
3. Proposed and existing utility easements, such as water, sanitary sewer, storm sewer, electric, natural gas, telephone, cable, maintenance and access and etc., including labels for easement types and widths,
4. Labeled proposed and existing drainage and stormwater controls, including labels for easement types and widths,
5. Proposed and existing buffers, such as undisturbed buffers, vegetative buffers, etc., including labels for easement types and widths, and

6. Proposed open spaces, including labels for easement types and widths.

**F. Calculations**

1. Total number of lots in the subdivision, if applicable,
2. Number of lots in each phase, if applicable,
3. Total acreage of open space, including subtotals for acreage of passive and active open spaces, [along with required tree preservation areas as specified in Article 11 \(if applicable\)](#),
4. Total linear footage of each individual street,
5. Total linear footage of each diameter size of waterline,
6. Peak potable water demand in gallons per minute,
7. Total linear footage of each diameter size of sanitary sewer line,
8. Peak wastewater generated with estimated inflow and infiltration for a 5-year storm event in gallons per minute,
9. The information stated in the Manual for pump station cycle times, storage and associated pump curves,
10. Pavement design calculations and associated AASHTO Soil Classification information for streets to be dedicated to a government.

**G. Electrical Utility Information.**

Electrical riser diagram for service entrance requirements as shown in the *Manual*. (For City owned electrical utilities only.)

**H. Other Required Forms and Plans.** Depending on the type of development, and the timing of development, other plans may be required.

1. Approved Street Name and Review Confirmation Sheet,
2. Approved Stormwater Management Plans as required in Articles 4 ~~and 6.~~
3. Approved Open Space Provision and Maintenance Plan as required in [Article 6.5 \[new 10 Article 10.\]](#), and the location and size of parks, school sites, open space areas, etc. and their ownership, legal instruments showing dedication of open space to a public entity (if necessary), a copy of restrictive covenants regarding open space.,
4. Completed Street and Driveway access permit application: [approved driveway permit necessary prior to Construction Drawing approval.](#)
5. Completed Traffic Impact Study (TIS), if required.

6. Copy of the approved preliminary subdivision plat, if applicable.
7. Completed architectural plans for multi-family and non-residential development in accordance with Article 7.
8. Third party approvals.
9. Fire and Life Safety Department Confirmation of Acknowledgement and Acceptance

#### 5.6.5. CONSIDERATIONS FOR APPROVAL.

- ~~A.~~ **A. Conformity with Approved Plat.** The number and configuration of lots on construction plans for subdivisions shall match the number and configuration of lots on the subdivision's approved preliminary plat.
- B. Third Party Permits.** Third party permits, such as driveway permits, utility permits, environmental permits, sedimentation and erosion control permits, must be approved prior to release of the construction drawings for construction.

#### 5.6.6. APPROVAL PROCESS FOR CONSTRUCTION DRAWINGS.

A. Developers shall submit the following to the Development Services Planning and Neighborhood Development Department:

~~The number of copies~~ A digital copy of the construction plans (in pdf form) meeting the size, scale, and content requirements of this subsection and the Manual. The plans shall be uploaded to the Plan Review Online Submittal and Access System as detailed on the Planning and Neighborhood Development Department's webpage.

~~4.~~  
~~and content requirements of this subsection and the Manual.~~

- ~~21.~~ Other Required Forms and Plans.
  - ~~32.~~ Completed Traffic Impact Study in accordance with Article 8 of the TSM and Section 50-125 of the City of Concord Code of Ordinances.3, and [KA28]
  - ~~43.~~ Completed utility permit applications in accordance with Sec. 62-77 of the Code of the City of Concord.
  - ~~54.~~ A review fee as specified in the most recent annual Budget Ordinance.
- B. The Development Review Committee shall examine and review the construction plans ~~within the time limit stated in the schedule adopted by the DRC or in the Manual.~~
  - C. Incomplete plans shall be returned to the developer and will not be reviewed by City staff until revised and resubmitted.
  - D. The developer shall revise the proposed plan if necessary, in accordance with

~~Technical-Development~~ Review Committee comments and re-submit revised copies along with any another fees or materials that may be required.

- E. Once the construction plan has been approved by the Director of Engineering or an individual under his/her direct control, it shall be made a matter of record as follows:
  - 1. The reasons for approval, disapproval, or approval with conditions shall be maintained on file with the Engineering Department.
  - 2. Approved plans shall be indexed and filed by the Engineering Department.

#### 5.6.7. REVISIONS OF THE CONSTRUCTION PLAN AFTER APPROVAL.

- A. Deviations from the approved engineering plans and specifications or changes in site conditions shall be submitted in writing by the engineer to the Director of Engineering for written approval prior to any further construction or installation activity.
- B. Modifications to the approved plans requiring federal, state, and local regulatory approval shall be the responsibility of the owner, developer, or their contractor and/or engineer. The owner / developer shall assume full responsibility for acquiring the applicable regulatory permits and approvals, prior to further construction or installation activity.
- C. The developer shall hold the City and its officers and agents harmless of any responsibility or liability, upon the failure of the developer or owner to obtain required regulatory approvals prior to further construction activity and the developers' failure to adhere to regulatory requirements during the construction activities.

## 5.7. CONSTRUCTION

### 5.7.1. PURPOSE.

The purpose of this section is to ensure that the construction of infrastructure is properly installed, inspected and documented.

### 5.7.2. PRE-CONSTRUCTION RESPONSIBILITIES.

- A. Prior to beginning construction, the applicant shall arrange a pre-construction meeting with the City of Concord for the purpose of coordinating construction activities.
- B. It shall be the responsibility of the applicant to notify the Director of Engineering (or his/her designee) at least 48 hours prior to the commencement of construction of improvements the amount of time specified in the Manual.

### 5.7.3. INSPECTION.

- A. Inspections shall occur at each of the following stages of construction to ensure conformity with the approved plans, specifications, and standards or as otherwise determined through an owner contract or development improvement agreement.
  - 1. Site grading and erosion control completion,
  - 2. Underground utility installation,
  - 3. Subgrade preparation prior to aggregate or asphalt base course installation,
  - 4. Immediately prior to aggregate base compaction,
  - 5. Concrete curb and gutter installation,
  - 6. Bituminous intermediate course(s),
  - 7. Subgrade preparation prior to sidewalk and street tree installation, and
  - 8. Final surfacing course prior to seal coat.
- B. Agents of the City and state may observe at any time during the progress of work.
- C. Where inspections are made by individuals or agencies, other than the Director of Engineering, (or his/her designee), the applicant shall provide the Director of Engineering with written reports of each final inspection.

All inspections of waterline extensions and sanitary sewer extensions shall be conducted in accordance with Section 62-86 of the Code of the City of Concord. All inspections of stormwater control and treatment infrastructure shall be conducted in accordance with the *Manual*, Chapter 60 of the Code of Ordinances and Article 4.

#### 5.7.4. CONSTRUCTION RESPONSIBILITIES.

- A. All improvements required pursuant to these regulations shall be constructed in accordance with the applicable requirements of this Ordinance, and, where applicable, the requirements and authorization of the appropriate state agency, utility company, or local franchisee.
- B. All installations of improvements shall conform to the approved construction plans. In the event that actual construction work deviates from that shown on the approved construction plans, such unapproved work shall constitute a violation of this Ordinance and shall be remedied in accordance with Section 1.56.
- C. The applicant or the bonded construction contractor shall bear full and final responsibility for the installation and construction of all required improvements according to the provisions of these regulations and the standards and specifications of other public agencies.
- D. If necessary, the applicant shall be required to correct the installed improvements to conform to the approved construction plans. In addition, the Administrator may take such other actions as may be deemed appropriate including, but not limited to, revocation of permits already issued and/or withholding of future approvals and permits until the violation is corrected.

~~E. If developments cannot be completed, under certain conditions the City MAY accept a contract and bond for a delay in the installation of certain required improvements in accordance with Article 8 of NCGS § 160D and . See the next section for on the procedures and requirements.~~

~~E. F. Contracts for Future Installation of Improvements~~<sup>[KG29]</sup>  
If developments cannot be completed, under certain conditions the City MAY accept a contract and bond for a delay in the installation of certain required improvements in accordance with NCGS § 160D-804(g) and as detailed below.

#### ~~G. Applicability.~~

1. The Administrator may delay the requirement for the completion of required improvements (excluding improvements required to provide for emergencies) prior to recordation of the final plat if the applicant enters into an Agreement in which the applicant covenants and agrees to complete all required on-site and off-site public improvements no later than two (2) years following the date upon which the final plat is recorded. Such period may be extended for up to an additional one (1) year period upon its expiration at the discretion of the Administrator.
2. At the discretion of the Administrator, the Administrator may recommend an Agreement with the developer for a development containing multiple final plats that specifies the timing and sequence of street, water, wastewater, drainage, and park or open space dedication and improvements. Notwithstanding any provision in this Ordinance to the

contrary, the Infrastructure Development Agreement shall determine the time when the required improvement or dedication for multiple final plat developments shall occur.

3. The City Attorney and City Council shall approve all Infrastructure Development Agreements as a legislative decision.

**GFH. Performance Security for Improvements**

1. Whenever the Administrator determines that improvements cannot be completed or installed due to adverse weather conditions or other factors determined to be reasonable by the Administrator, or pursuant to Section 5.7.4(GH)(6) below or to an established city policy, a developer may enter into an Agreement with the City. The developer shall be required to provide sufficient security to ensure completion of the required public improvements or private stormwater control measure. The security shall be in the form of an irrevocable letter of credit, surety bond or cash escrow, or another form of guarantee that provides equivalent security.
2. The Director of Engineering shall approve the surety bond, letter of credit or cash escrow in an amount that totals up to 125% of the cost of the improvements in the approved construction plan. The applicant shall provide either a bid from their contractor(s) of record for the Director of Engineering to review and approve or an estimate completed by a professional engineer with reference to average prices for the local market before the amount of the bond is established. The dollar amount shall be sufficient to cover all promises and conditions contained in the Agreement.
3. If security is provided in the form of a cash escrow, the applicant shall deposit with the City Finance Director a cash amount or certified check endorsed to the escrow agent for a face value in an amount not less than the amount specified by the Director of Engineering.
4. The cash escrow account shall accrue to the City for administering the construction, operation, and maintenance of the improvements.
5. Upon completion, as set forth in Section 5.7.9 below, of all improvements as covered by the Agreement, the Director of Engineering (or his/her designee) shall inspect the work. If the Director determines that the work is satisfactory and complete, the security shall be released. The Director shall also require evidence from the developer that all contractors have been paid in full prior to the release of the performance security. The Director shall permit one reduction of the letter of credit or cash escrow upon approval.
6. Without limiting the above, for public roads, streets, sidewalks, street trees, and rights of way, the Director of Engineering may collect a performance guarantee to ensure completion, provided that such project shall not be considered complete except as provided in Section 5.7.9.

**I.G. Payments - In Lieu of Installation for Curbing, Guttering and Sidewalks Improvements.**

1. In certain cases, upon the request of the applicant, the City may relieve the applicant from the requirement to install curbing, guttering or sidewalks, in return for a payment-in-lieu of the installation. The application procedures and requirements are explained in this subsection.
2. A written application for a sidewalk, curb, and gutter exception is submitted to the office of the Development Services Department demonstrating:
  - A. That the project meets one or both of the following scenarios:
  - B. Where the topography does not allow for the reasonable or practical installation of sidewalks, curbs, and gutters; and/or
  - C. In instances where the ultimate right-of-way width is not yet determined, and/or
  - D. The developer provides an alternate walkway, trail or greenway that is approved by the Administrator following the recommendation of the Development Review Committee; and
  - E. The developer agrees to pay a fee-in-lieu of the required installation and to provide any required rights-of-way and/or easement dedications.
  - F. The “sidewalk, curb and gutter fee” is set annually in the adopted budget ordinance. The fee is based on actual costs for typical construction during the previous fiscal year, times 110% to cover administrative costs and the cost of inflation.
  - G. The fees collected are held in a Sidewalk, Curb, and Gutter Reserve Account (the “Reserve Account”) administered by the City of Concord.
  - H. The Reserve Account is used only for the construction of sidewalks, curbs, and gutters at locations within the same Sidewalk Maintenance Routes/ Zones as the project where the exception was granted.
  - I. **Failure to Comply with Agreement Terms.** If an Agreement has been executed and security has been posted and required public improvements are not installed pursuant to the terms of the Agreement, the Administrator and/or the Director of Engineering may:
    1. Declare the Agreement to be in default prior to the expiration of the guarantee instrument, and require that

all public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;

2. Obtain funds from the surety and complete the public improvements by itself or through a third party;
3. Assign its right to receive funds from the surety in whole or in part to any third party, including a subsequent owner of the subdivision or addition for whom the public improvements were not constructed, in exchange for the subsequent owner's Agreement to complete the required public improvements; and/or
4. Exercise any other rights available under the law.

**5.7.5. AS-BUILT DRAWINGS AND RECORD DRAWINGS.**

As-built drawings and record drawings shall document the location of the items required in Sec. 5.6.4. and shall be prepared and delivered in accordance with Sections 60-86, 62-88 and 62-89, respectively of the Code of the City of Concord, and stormwater control facilities required by the Concord Development Ordinance Section §4.4, regardless of whether the City is accepting the infrastructure for public maintenance or not.

**5.7.6. CONSIDERATIONS FOR APPROVAL AND ACCEPTANCE.**

Approval of the installation of improvements by the Director of Engineering shall not constitute acceptance by the City of the improvement for dedication purposes. The installation of improvements in any subdivision shall, in no case, serve to bind the City to accept such improvements for maintenance, repair or operation. Such acceptance shall be subject to the provisions of this Ordinance concerning the acceptance of each type of improvement.

1. **Certificates.** The following certificates shall be provided and executed:
2. **CERTIFICATE OF CONFORMITY WITH PLANS AND SPECIFICATIONS**

CITY OF CONCORD

\_\_\_\_\_  
NAME OF DEVELOPMENT

\_\_\_\_\_  
NAME OF STREETS IN DEVELOPMENT

\_\_\_\_\_  
DEVELOPER

I hereby certify to the best of my knowledge, and belief, that all street, storm drainage, water and sewer work to be performed on this site plan development has been checked by me or my authorized representative and conforms with

lines, grades, cross-sections, dimensions, and material requirements which are shown on and indicated in the plans which have been reviewed and approved by the Concord Development Ordinance Administrator or the North Carolina Department of Transportation.

I also acknowledge that falsification of the above certifications may subject me to civil suit and/or criminal prosecution under the General Statutes, including but not limited to, G.S. 14-100 and G.S. 136-102.6 and the Code of Ordinances of the City of Concord.

Signed:

\_\_\_\_\_  
REGISTERED PROFESSIONAL ENGINEER

\_\_\_\_\_  
REGISTRATION NO.                      DATE

NORTH CAROLINA  
CABARRUS COUNTY

I, \_\_\_\_\_, a notary public for said county and state, do hereby certify that \_\_\_\_\_ personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

**5.7.7. APPROVAL PROCESS.**

The City shall inspect all improvements required by these regulations in accordance with this Ordinance prior to acceptance. The City shall not have any responsibility with respect to any street, or other improvement, notwithstanding the use of the same by the public, unless the City has accepted the street or other improvement. When improvements have been constructed in accordance with the requirements and conditions of these regulations and the specifications of this Article, and the applicant has submitted as-built drawings to the Director of Engineering, the City Council may accept the improvements for maintenance by the City, except that this shall not apply to improvements maintained by another entity.

**5.7.8. PROCEDURE FOR ACCEPTANCE**

- A. The developer may call for an inspection of these improvements and for official acceptance of any infrastructure for maintenance by the public by the City Council

- B. If all of the conditions of Section 5.7.9. below have been met, the Administrator shall put the matter on the agenda for consideration at a future City Council meeting.
- C. If accepted, a written acknowledgment of acceptance or conditioned acceptance shall be forwarded to the developer by the administrator.

#### 5.7.9. CONDITIONS OF APPROVAL.

The following conditions shall be met before the City Council of the City of Concord will consider accepting infrastructure improvements:

- A. **Rights-of-Way.** Property owner(s) must offer dedications of rights-of-way of a width approved by the City free of charge and clear of all encumbrances. The specific standards for acceptance of easements shall be subject to the *Manual* and any other adopted policy or manual of the City. All easements shall be in full compliance with this Ordinance prior to acceptance. The City will not accept dedication of any street, road, sidewalk, or public right of way, and no street, road, or public right of way shall be considered complete, until seventy five percent (75%) of the lots in the applicable permitted phase map have been constructed.
- B. **Utilities / Streets / Stormwater Utilities.** When improvements have been constructed in accordance with the requirements and conditions of these regulations and the specifications of this Article, and the applicant has submitted as-built drawings to the Director of Engineering, the City Council may consider acceptance of the improvements for maintenance by the City. All infrastructure including street signs and markings under consideration for addition to the city system shall be in an acceptable state of maintenance as determined by the Director of Engineering upon the recommendation of the Development Review Committee. The applicant shall be responsible for removal of all equipment, material, and general construction debris from the subdivision and from any lot, street, public way or property therein or adjacent thereto. Dumping of such debris into sewers, onto adjacent property or onto other land in the City is prohibited. The as-built drawings shall include all infrastructure, including those portions of roads and drainage that may be considered private in nature.
- C. **Timing.** All offers of dedication via a subdivision plat or contained on a site plan shall not be accepted until the final plat is approved by the Administrator or Planning & Zoning Commission, and all infrastructure and/or improvements are completed and “as-built” drawings are submitted to the Director of Engineering, and any other conditions imposed by the City Council are met. All utilities and/or infrastructure in a geographic area shall be accepted simultaneously. This subsection shall not apply to improvements maintained by another entity.
- D. **Private Facilities.** Private streets, roads, travel aisles, parking lots, alleys serving residential, multifamily, commercial, and industrial developments shall not be eligible for acceptance to the City’s street system unless they are designed, built, inspected, and dedicated in accordance with the *Manual* and the requirements of this Ordinance. These provisions shall not relieve the developer or the developer’s agent or contractor of responsibility in notifying the City of completed work and the developer’s request for a City inspection. The agency

having jurisdiction shall inspect and approve all completed work prior to the release of any performance guarantees.

**5.7.10. POST-CONSTRUCTION RESPONSIBILITIES.**

- A. The developer shall be responsible for the material and craftsmanship of all donated infrastructure for a warranty period of one year from the date of ACCEPTANCE in accordance with Section 5.7.8 of the project or the phase of the project.
- B. The City shall have the right to increase the warranty period for atypical construction materials or construction techniques or sub-standard construction
- C. The warranty period shall begin on the date that the City Council accepts ownership of the modification or extension.
- D. This warranty shall include any damages that may arise from construction by other utility companies or homebuilders.
- E. The City shall relieve the developer of their obligation under the warranty period by performing a one-year warranty inspection, or an inspection at the end of an extended warranty period. Inspections shall include, but are not limited to, a video recording of the interior of all sanitary sewer outfall mains, collection mains, and laterals on a CD, DVD, or equivalent successor media and a recording of the interior of all storm sewer mains, outfalls, and appurtenant items, both within street rights-of-way and in those areas considered to be privately owned and maintained on a CD, DVD, or equivalent successor media. The entire storm drainage system shall be cleaned and be free of mud and debris prior to the video inspection so all defects shall be clearly visible. The mud and debris shall not be discharged into streams or waterbodies, but shall be captured and disposed in a manner acceptable to the City, County, and NCDENR.
- F. Any and all defects found at this time that do not conform to the City's standards or this ordinance shall be repaired or replaced at the developer's expense.
- G. Any defects in workmanship and/or materials shall be repaired to the satisfaction of the Administrator or Director of Engineering. Developers are required to make all necessary repairs immediately.

## 6.1. ADMINISTRATIVE PERMITS

3. Following review, the Administrator shall approve, approve with conditions, or deny the application for a Zoning Clearance Permit. Development approvals will be provided in writing in either print or electronic form (in a version protected from further editing). Applications that are denied shall have the reasons for denial, in writing, attached to the application. An appeal of the decision of the Administrator to the Zoning Board of Adjustment is allowed as prescribed in § 6.3.

## 6.2. SPECIAL USE PERMITS

### 6.2.1. APPLICABILITY.

- A. Special uses are generally compatible with the land uses permitted by right in a zoning district, but require individual review as to their location, design, and configuration. Special uses ensure the appropriateness of the use at a particular location within a given zoning district.
- B. Only those uses that are enumerated as special uses in a zoning district, as set forth in the Table of Permitted Uses of this Ordinance, shall be authorized by the Planning and Zoning Commission (Commission).

### 6.2.2. APPROVAL PROCEDURE.

- A. No Special Use Permit shall be authorized, developed, or otherwise carried out until the applicant has approval of the Special Use from the Planning and Zoning Commission and approval of a site plan per § 5.4 or alternate plan by the Administrator and/or Commission, as applicable.
- B. Applications for Special Use Permit approvals shall be filed with the Administrator. A pre application meeting prior to filing is strongly encouraged.
- C. Site plan applications (see Article 5.4) or Plot Plans (see § 6.1.4. B.) shall be filed concurrently with Special Use Permit applications. The Planning and Zoning Commission shall consider both the site plan and special use permit at the same meeting.
- D. The Planning and Zoning Commission shall conduct a quasi-judicial evidentiary public hearing following the requirements of Section 6.3 below, and shall do one of the following;
  1. Deny the request, or
  2. Approve the request; or
  3. Approve the request with conditions.
- E. The Planning and Zoning Commission may place conditions on the use as part of the approval to assure adequate mitigation measures are associated with the use. The conditions shall be agreed to in writing and become a part of the special use permit approval and shall be included as part of the site plan. The Commission may not impose any conditions on a special use permit that it does not otherwise have statutory authority to impose.

### 6.3.3. QUASI-JUDICIAL PUBLIC HEARING PROCEDURES.

- ▲ A. **Generally.** In making quasi-judicial decisions, the decision-makers must investigate facts, or ascertain the existence of facts, hold hearings, weigh evidence, and draw conclusions from them, as a basis for their official action, and to exercise discretion of a judicial nature. In the land use context, these quasi-judicial decisions involve the application of land use policies to individual situations, such as variances, special exceptions, special use permits and appeals of administrative determinations. These decisions involve two key elements: 1.) The finding of facts regarding the specific proposal and 2.) The exercise of some discretion in applying the standards of the ordinance. Due process requirements for quasi-judicial decisions mandate that certain standards be observed when these decisions are made. This includes a hearing with the right of the parties to offer evidence, have sworn testimony, and have findings of fact supported by competent, substantial, and material evidence. Minutes from the quasi-judicial public hearing will be recorded and kept by the clerk.
  
- B. **Conduct of Hearing.** Any person or persons may appear at a public hearing and submit evidence, either individually or as a representative. Each person who appears at a public hearing, after first taking an oath or affirmation to give accurate and truthful testimony, shall state, for the record, his or her name, address, and if appearing on behalf of an organization or group, its name and mailing address.
  - 1. All parties in interest with standing shall have the right to participate fully in evidentiary hearing including: presenting evidence, and cross-examine examining witnesses, objecting to evidence, and making legal arguments. as to any competent, material, and relevant facts, inspect documents, and make oral argument. Non-parties may present competent, material, and substantial evidence that is not repetitive. Opinion testimony from a lay witness shall not be considered competent evidence for technical matters such as property value or traffic impacts.
  - 2. The burden of proof is upon the party who files the application, and if the party fails to meet its burden, the reviewing body shall deny the request.
  - 3. The Board of Adjustment shall act as a fact-finding body and shall approve or disapprove the application in accordance with the evidence presented before it that is competent, relevant, and material. Every decision shall include the vote, abstention from voting, or absence of each member.
  
- C. The decision of the quasi-judicial proceeding, including findings of fact and conclusions of law, shall be filed in the Office of the City Clerk and recorded at the Cabarrus County Registry. A written copy shall be mailed to the applicant and to any person who has filed a written request for such copy with the Office of the City Clerk or chairperson of the zoning board of adjustment at the time of its hearing of the case. Delivery shall be by any of the following means: personal service, registered mail, or certified mail, return receipt requested.

## 7.3 ZONING MAP

### 7.3.1. BOUNDARIES OF ZONING DISTRICTS

The boundaries of zoning districts established by this Ordinance shall be designated on a map or maps entitled Official Zoning Map(s) of the City of Concord. The City Clerk shall certify these maps and all references and dates shown thereon.

### 7.3.2. LOCATION OF OFFICIAL ZONING MAP

- A. ~~The~~ Digital and/or paper copies of the current and prior versions of the Official Zoning Map shall be located in the Office of the Administrator and a copy of the Official Zoning Map shall be kept on file with the City Clerk. Any changes thereto shall be clearly shown on the Official Zoning Map and available for public inspection.

### ~~7.10.6 APPROVALS~~

~~For new structures greater than 100,000 square feet, the Planning and Zoning Commission shall approve the plans. All other structures shall comply with the requirements of Section 6.4.~~

## 9.2.4 \_DESIGN STANDARDS

In ~~additional~~addition to the design standards described in Section 8.28, the following design standards shall be applied to ~~allother~~all other requirements of this CDO, developments with single-family dwellings ~~or~~and buildings containing more than one dwelling unit shall incorporate the following design features.

### ~~A.~~ A. Garages

~~Garage fronts shall be de-emphasized and not be the most prominent architectural feature of any dwelling in the development. This should be accomplished by providing side access garages, detached "in-line" garages, and/or L-shaped floor plans on not less than fifty percent (50%) of the lots. Garages should be recessed at least one car length in order to provide interest and relief from the street. The front elevation shall prominently feature an entrance for persons rather than automobiles with the garage area not to exceed forty percent (40%) of the front façade. See Section Article 7.7 for acceptable garage placement alternatives.~~

### ~~B.~~ B. Front Porches

~~At least fifty percent (50%) of all single family, patio style, duplex, or townhome units in the development shall have a useable front porch measuring at least eight (8) feet in depth covering at least 30 percent of the building width.~~

### **A. Recreation**

At least seventy percent (70%) of all residential units shall be located no further than 660 feet from a pedestrian (excluding sidewalks), equestrian or bicycle trail measured from the boundary of the lot. Recreation and open space facilities shall be aligned with the community parks and open space network, as provided in any locally adopted land use plans or parks and recreation master plans. For infill PUD's the Administrator may consider other elements, such as sidewalks, in order to meet this requirement.

### **B. Multi-Modal Requirements**

Bicycle lanes shall be included along at least seventy percent (70%) of the linear frontage of all planned collector streets.

**C. Development Entrances**

Customized entrances shall be provided at all streets intersecting a thoroughfare or collector. Such locations may include a waterfall, sculpture, monument signage, special landscaping, specialty pavement, enhanced fence or wall details, boulevard median or other similar treatment. The extent of such features shall match the scale of the proposed development (more significant features shall be required for larger developments).

**D. Preservation of Tree Cover**

At least one third (1/3) of the tree canopy shall be protected for property covered with forest. Existing tree locations shall be clearly marked on the master plan.

**9.2.5 ANTI-MONOTONY STANDARDS**

~~A. In addition to the design standards, the following standards shall apply to all single-family dwellings or buildings containing more than one dwelling unit to prevent monotony.~~

~~B. A variety of building sizes or scales shall be provided. No more than three buildings in a row shall have more than a 30 percent difference in scale between the largest and smallest building as measured by the building floor area (See Figure 8.28-1).~~

~~C. No two dwellings or buildings on a street face shall be identical in floor plan or color unless differing by at least two of the following (See Figure 8.28-2).~~

~~1. Rotated or reverse lot orientation~~

~~2. Different roof configuration~~

~~3. Different materials or exterior walls.~~

~~4. The addition of architectural features that alter the appearance of the building.~~

~~D. No single house directly across the street shall have the same floor plan. Identical color schemes shall require the addition of another differentiating feature (total of 3) from numbers 1 through 4 above to offset the similarity in color.~~

~~E. Pattern Book~~

~~The developer shall provide a pattern book (See Figure 9.2.5-3) indicating the style of homes to be built, materials, and their locations within the proposed district.~~

## 9.3 MIXED USE DISTRICTS

### F.

#### F. MX Residential Structures

The following standards and guidelines apply to residential structures in MX's.

##### Standards

All residential structures shall comply with Article 5.28 Residential Development Standards, and 11.2 Multi-Family Residential Design Standards. Additional standards are as follows:

1. **Entries:** To provide privacy, all residential entrances within 15 of the sidewalk shall be raised from the finished grade (at the building line) a minimum of 1½ feet (Figure 9.3-20).



Figure 9.19-20  
Example of a single-family detached home meeting the requirements of this ordinance

2. **Porches:** Useable porches and stoops shall form the predominate motif of the building design and be located on the front and/or side of the building. Useable front porches shall be at least 8 feet deep and twelve (12) feet in width (Figure 9.3-20 and 11-21).



Figure 9.3-21  
Group of single-family detached homes meeting the requirements of the ordinance.

3. **Garages:** Garage doors are not permitted on the front elevation of any detached house on a lot less than 60 feet wide. A single car driveway shall be placed on the side of the house accessing a detached garage in the backyard of the property. Rear entry garages may be placed on any width lot. Otherwise, garage placement shall conform to Article 5.28. All garages with more than two bays shall be turned such that the bays are not visible from the street. The width of attached garages shall not exceed 40% of the total building façade.

4. **Crawlspace:** The crawlspace of buildings shall be enclosed (Figure 9.3-20). Brick, rock, stone, or stucco comprise the visible portion of the crawl space. Under no circumstances shall gray smooth face concrete block be visible. For the space beneath front porches, lattice material may be used.

5. **Townhome Detailed Design:** All building elevations visible from the street shall provide doors, porches, balconies, and/or windows (Figure 9.3-21/22). A minimum of 60% of front elevations, and a minimum of 30% of side and rear building elevations, as applicable, shall meet this standard. "Percent of elevation" is measured as the horizontal plane (lineal feet) containing doors, porches, balconies, terraces and/or windows. This standard applies to each full and partial building story.

#### **10.1.10 REDEVELOPMENT**

The redevelopment of a parcel and/or lot resulting in a more intensive use and/or a subdivision of property shall warrant developer installed utility services and/or public utility extensions in accordance to State and City regulations and standards, with corresponding inspections completed by City staff. It should be noted that all public utility extensions of water infrastructure shall be planned along main City or State road thoroughfares and be extended to/serve all water connection points located at the extents of the proposed subdivision (i.e. subdivision roads intersecting with the main City or State road thoroughfare). In addition, proposed City water infrastructure along these main road thoroughfares shall be adequately sized from a hydraulic perspective and meet all of the City's design regulations and standards.

As referenced in Section 10.1.2 (Minimum Lot Standards), proposed redeveloped lots shall meet the following criteria:

- A. The provisions included in Article 6, Section 6.6 shall apply to any newly created or proposed Lot or Parcel resulting from a subdivision of land as provided for in Article 6.
- B. Lots shall meet or exceed zoning district standards and shall be designed for their potential uses, so that adequate buildable area is provided and adequate room for required setbacks (See Article 7, Section 7.7) and buffer yards (See Article 11) will exist on the Lot.

It should also be noted that redeveloped lots shall meet all applicable criteria previously referenced throughout Article 10, Section 10.1 (Lot Design Standards).

### 13.1.7. REPLACEMENT OF NONCONFORMING MANUFACTURED HOMES ON INDIVIDUAL LOTS

- A. Nonconforming manufactured homes on individual lots may be removed and replaced provided that the replacement manufactured home is ~~no older than 1976, the unit is~~ a Type II (double-wide) or larger, and must conform to the design and installation standards of Section 9.6.3 of this Ordinance. [K61]

### 13.1.8. NONCONFORMING MANUFACTURED HOME PARKS

- ▲ A. All manufactured home parks made nonconforming by this Ordinance and not operating under a ~~conditional~~ special use permit in accordance with this Ordinance may continue. However, the arrangement of spaces is not to be altered nor the number of spaces increased. In the absence of a plat recorded in the Cabarrus County Register of Deeds office prior to June 30, 1981, records in the Cabarrus County Tax Supervisor's office will be utilized as verification reflecting the number of lots the individual paid taxes on.
- B. Manufactured homes within nonconforming parks may be removed and replaced provided that the replacement manufactured home ~~is no older than 1976 and must conform~~s to the design and installation standards of Section 9.6 of this Ordinance [K62].

### 13.2.8 SITE-SPECIFIC DEVELOPMENT PLANS (SSDPs)

- A. **GENERAL:** The City Council or the Planning and Zoning Commission ~~(for preliminary subdivision plats)~~ may, but under no circumstances is it required, to approve a Site-Specific Development Plan (SSDP). The SSDP shall bind the applicant and the City Council (the "parties") and shall contain those terms and conditions agreed to by the parties and those required by this Section. The Administrator and the City Attorney, or their designees, are authorized to negotiate Development Agreements on behalf of the City Council to enforce a SSDP.
- B. **Applicability:** The City Council or the Planning and Zoning Commission may approve a SSDP pursuant to this Section only if the proposed development to which the SSDP pertains is in conformity with the then adopted Comprehensive Plan and capital improvements program, zoning regulations, and other applicable requirements of this Ordinance. The SSDP shall be used solely as a means to enforce compliance with the terms of this Ordinance, and shall not be considered an inducement for the approval of any application for development approval.
- C. **Duration:** Upon approval of a Site Specific Development Plan, the right to develop such Development or Use shall continue for period of two (2) ~~to five (5)~~ years from the date of approval of such Site Specific Development Plan.

Notwithstanding the foregoing, the City, in its approval, may authorize a Vested Rights development period of longer than two (2) years, but in no event longer than five (5) years, if, in the City's sole discretion, such longer period is necessary because of the size and phasing of the Development, the investment in the Development, the need for the Development, economic cycles, and such other conditions as the City may consider relevant.

### 13.2.9. PHASED DEVELOPMENT PLANS (PDP's)

The procedures and requirements pertaining to Phased Development Plans (PDP's) shall be the same as those set forth for SSDP's in § 13.2.8, except as provided below:

- A. **Duration:** The City Council or Planning and Zoning Commission may, but under no circumstances is it required, provide by ordinance that approval by the City Council or Planning and Zoning Commission of a phased development plan shall vest the zoning classification or classifications so approved for a period not to exceed ~~five~~ seven (7) years.
- B. **Procedure:** The document that triggers such vesting shall be so identified at the time of its approval. The City Council or Planning and Zoning Commission still may require the landowner to submit a site specific development plan for approval by the city with respect to each phase or phases in order to obtain final approval to develop within the restrictions of the vested zoning classification or classifications.
- C. **Discretion:** Nothing in this section shall be construed to require the City Council or Planning and Zoning Commission to adopt an ordinance providing for vesting of rights upon approval of a phased development plan.

**Table 13.3-1  
TIME LIMITS FOR USE OF ZONING APPROVALS AND PERMITS \***

Action/Permit/Approval	Time Limit
Zoning Map Amendments including Conditional District Map Amendments	Indefinite. Zoning Map amendments must be processed and approved under the procedures in Article 3 in order to modify the zoning.
Special Use Permit under the current or a former ordinance (or a Conditional Use Permits under a former Ordinance)	The permit is valid until it is amended, modified or removed by a subsequent quasi-judicial procedure or the owner has abandoned the Permit by constructing a different use on the property. <a href="#">(Also see Preliminary Site Plan below.)</a>
<a href="#">Special Use Permit granted after June 30, 2021</a>	<a href="#">Two (2) years from date of approval</a>
Variance	<del>Six (6) months to obtain a building permit and to commence construction of the primary use authorized by the variance</del> <a href="#">No expiration date</a>
Preliminary <del>Site Plan</del> <a href="#">Subdivision Plat</a>	The approval of a preliminary site plan shall be effective for a period of <del>one (1)</del> <a href="#">three (3) years</a> from the date of approval, at the end of which time the applicant must have submitted <a href="#">an application for a final plat</a> . <a href="#">Extensions are permissible in certain instances. (See Section 5.2.5).</a> <del>Once furtherance of the preliminary plat is determined, the plan shall remain valid through the period of construction. a complete final site plan for approval. If a final site plan is not submitted for final approval within the one (1) year period, the preliminary approval shall be null and void, and the applicant shall be required to submit a new preliminary site plan for review.</del>
Final Site Plan	The approval of a final site plan shall be effective for a period of one (1) year from the date that the final site plan is approved by the Administrator at the end of which time, substantial construction shall have commenced and shall continue without interruption, or a complete building permit application shall be submitted and reviewed by the Administrator. Failing same, the final approval shall be null and void, and the applicant shall be required to submit a new preliminary site plan subject to the then existing provisions of this Ordinance.

\* Where Vested Rights have been established in accordance with Section [134.2](#) of this Ordinance, the time limits as set forth in Section [134.2](#) shall apply.

**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 for the in § 3.2 of this Ordinance or any other development regulations. These are sometimes referred to as ministerial decisions or administrative determinations. (Source NCGS § 160D-102) Any decision on a development application made by an authorized employee or official pursuant to § 3.2 of this Ordinance.

**BUBBLE PLAN** - A graphic representation that does not depict the exact location of proposed structures or infrastructure, but depicts the general extent and nature of the proposed development. Nature of development should be generally understood to mean uses, scale, and intensity, but may also include design elements and other anticipated features.

**CONDITIONAL USE** -- A "conditional use" means a use which, because of its unique or varying characteristics, cannot be properly classified as a permitted use in a particular district. A use is considered a conditional use if designated as such by the Use Matrix of Table 4.6-1.

**DEVELOPER** - A person, firm, partnership, joint venture, association, corporation, groups or organization who shall participate as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of a development. The owner of land proposed to be subdivided or developed or its authorized agent who is responsible for any undertaking that requires review and/or approval under this Ordinance. A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property (Source NCGS § 160D-102)

**DEVELOPMENT** -- Unless the context clearly indicates otherwise, the term means:

1. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure;
2. excavation, grading, filling, clearing, or alteration of land;
3. the subdivision of land as defined in G.S. 160D-802; or
4. the initiation or substantial change in the use of land or the intensity of use of land.

This definition does not alter the scope of regulatory authority granted by the Articles of this Chapter. (Source NCGS § 160D-102)

~~The division of a parcel of land into two or more parcels; the construction, reconstruction conversion, structural alteration, relocation or enlargement of any structure; any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, and any mining, dredging, drilling, filling, grading, paving, excavation, storage of equipment or materials, clearing of roadways or building sites, landfill or land disturbance and any use or extension of the use of land. This definition excludes normal earth working associated with crop farming or landscaping of an individual single-family residential lot. The term "development" includes all of the activities listed in the definition of "development" in 15A NCAC 2H.1002, which definition is hereby incorporated by this reference, and any of the following activities:~~

~~Change in use.~~

~~Construction, clearing, filling, excavating, grading, paving, dredging, mining, drilling or otherwise significantly disturbing the soil of a site.~~

~~Building, installing, enlarging, replacing or substantially restoring a structure, impervious surface, or central water system and including the long-term storage of materials.~~

~~Erection of a permanent sign.~~

~~Any activity increasing the need for parking.~~

~~Construction, elimination or alteration of a driveway onto a public street.~~

**DWELLING** - Any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that for purposes of Article 12 it does not include any manufactured home, mobile home, or recreational vehicle, if used solely for seasonal vacation purpose. (Source NCGS § 160D-102)Any building which contains one or more "Dwelling Units" used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or which are occupied for living purposes. (Source: North Carolina State Building Code, Vol. 1, § 201.2 and Vol. VII, § 202).

~~EQUIVALENT DWELLING UNIT OR "EDU" - See "Equivalent Residential Unit."~~

~~EQUIVALENT RESIDENTIAL UNIT OR "ERU" - (See Art. 14 "Adequate Public Facilities Standards" of this Ordinance.)~~

**MANUFACTURED HOME** - A structure, used or intended to be used as a Dwelling Unit, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. §5401, et seq. (Source: The Uniform Standards Code for Manufactured Homes Act," NCGS § 143-145). For purposes of this Ordinance, a "manufactured home" does not include a structure which otherwise complies with this subsection, but which was built prior to June 15, 1976, which units shall be classified as "mobile homes."

~~MOBILE HOME - A single-family dwelling, factory built and factory-assembled residence which does not comply with the National Manufactured Homes Construction Safety and Standards Act (42 U.S.C. § 5401, 1978, as amended) or the State Building Code.~~

~~OPEN FLAG - Flags with a predetermined design and size (12" wide by 30" long), and used by businesses in the CC zoning district to indicate that a business is open to the public. Open Flags are regulated in accordance with the standards of Article 7.9 Center City (CC) Design Standards, and the flags and corresponding hardware shall be issued to the applicant, subject to review and approval of the application by the Concord Downtown Development Corporation (CDDC).~~

SITE PLAN - A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision, and a site plan approval based in whole or in part upon the application of standards involving judgement and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision.

SPECIAL USE - A "special use" means a use which, because of its unique or varying characteristics, cannot be properly classified as a permitted use in a particular district. A use is considered a special use if designated as such by the Use Matrix of Table 8.1.8.