

SANFORD LEE COUNTY BROADWAY
UNIFIED DEVELOPMENT ORDINANCE

ARTICLE 6 – SUBDIVISION REGULATIONS

Summary: This article establishes procedures for the subdivision of land. Included are requirements for the division of land into a subdivision, as defined in Appendix A of this Ordinance, as authorized by NCGS Chapter 160D, Article 8 (§160D-801 through 808). This Article of the UDO shall officially be known, cited and referred to as the Subdivision Regulations of the County of Lee.

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6.1 GENERAL PROVISIONS

6.1.1 PURPOSE

As authorized by NCGS Chapter 160D, Article 8 (160D-801 through 808), the purposes of establishing this Article are:

6.1.1.1 To provide for the coordination of transportation networks and utilities within proposed subdivisions with existing or planned streets and highways and with other public facilities.

6.1.1.2 Within larger subdivisions, to provide for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision or for provision of funds to be used to acquire recreation areas serving residents of the development or subdivision or more than one subdivision or development within the immediate area.

6.1.1.3 To provide rights-of-way or easements for street and utility purposes including the dedication of rights-of-way pursuant to NCGS §§136-66.10 or 136-66.11.

6.1.1.4 To provide for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions that substantially promote public health, safety, and general welfare.

6.1.1.5 To provide that the final plat shows sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line, easement boundary line, and other property boundaries, including the radius and other data for curved property lines, to an appropriate accuracy and in conformance with good surveying practice.

6.1.2 APPLICABILITY

This Article shall apply to any subdivision, as defined in Appendix A of this Ordinance, within the unincorporated area of Lee County and the corporate limits of the City of Sanford and Town of Broadway or any extraterritorial jurisdiction established pursuant to NCGS § 160D-201; -202. Land that has been subdivided prior to the effective date of these regulations should, whenever possible, be brought within the scope of these regulations to further the purposes of this Ordinance. However, all existing preliminary plats that were approved under the prior Ordinance shall remain valid unless or until the approval expires.

6.1.3 AUTHORITY AND JURISDICTION

6.1.3.1 CITY OF SANFORD, INCLUDING ETJ

The Technical Review Committee (TRC) is vested with authority to review, approve, conditionally approve, and disapprove application for preliminary plats in accordance with NCGS 160D-803(c). (see table 6.3-1)

6.1.3.2 LEE COUNTY AND TOWN OF BROADWAY, INCLUDING ETJ

The respective jurisdiction's Planning Board is vested with the authority to review, approve,

conditionally approve, and disapprove applications for preliminary plats. (see Table 6.3-2)

6.1.3.2 DEPARTMENT OF COMMUNITY DEVELOPMENT

The Department of Community Development, Zoning Administrator, or designee is vested with the authority to review and approve sketch plats and to approve, conditionally approve and disapprove applications for minor plats (minor subdivisions) and/or final plats (major subdivisions) (see Table 6.3-1).

6.1.3.3 DEPARTMENT OF PUBLIC WORKS

The Department of Public Works is vested with the authority to review and approve Construction Plans, Subdivision Improvements Agreements, and Maintenance Bonds.

6.1.3.4 CITY COUNCIL, COUNTY COMMISSION, OR TOWN BOARD OF COMMISSIONERS

The Governing Body is vested with the authority to accept all public dedications including, but not limited to right-of-way, easements, park facilities, and open space.

6.1.4 WHEN A SUBDIVISION PLAT IS REQUIRED

6.1.4.1 From and after the effective date of this Ordinance, the owner or proprietor of any tract of land who desires to Subdivide land (to create a “Subdivision”) shall be required to submit a plat of such Subdivision to the Department of Community Development, who is hereby charged with the responsibility for coordinating the processing of such plats. The subdivision plat submitted to the Department of Community Development must be prepared in accordance with the regulations set forth in this Article.

6.1.4.2 No person shall subdivide land without making and recording a plat and complying fully with the provisions of this Article and all other state and local laws and regulations applying to Subdivisions.

6.1.4.3 No person shall sell or transfer ownership of any lot or parcel of land by reference to a plat of a subdivision before such plat has been duly recorded with the Register of Deeds, unless such subdivision was created prior to the adoption of this Ordinance and any other subdivision ordinance applicable thereto.

6.1.4.4 No building permit or certificate of occupancy shall be issued for any parcel or plat of land which was created by subdivision after the effective date of this Ordinance, and no construction of any public or private improvements shall be commenced, except in conformity with the requirements of this Ordinance.

6.1.4.5 A final subdivision plat shall be approved by the Department of Community Development before the subdivision of a parcel may be recorded. No land may be subdivided through the use of any legal description other than with reference to a plat approved by the Department of Community Development in accordance with these regulations, except that which is permitted within § 6.1.5, below.

6.1.5 WHEN SUBDIVISION APPROVAL IS NOT REQUIRED (EXEMPT LAND DIVISIONS)

Pursuant to NCGS §160D-802, a subdivision plat shall not be required for any of the following (see definition of “Subdivision” in Appendix A):

6.1.5.1 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 are equal to or exceed the standards of the County of Lee as shown in this Ordinance;

6.1.5.2 The division of land into parcels greater than 10 acres where no street right-of- way dedication is involved.

6.1.5.3 The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.

6.1.5.4 The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the municipality, as shown in this Ordinance.

6.1.5.5 The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

6.1.5.6 The subdivision or recombination of land by public utilities.

6.1.6 DETERMINATION OF PLAT EXEMPTION

6.1.6.1 The determination of whether a plat is exempt from subdivision regulations shall be made by the Zoning Administrator or his/her designee, upon review of the proposed subdivision, with supporting documentation (maps, plats, etc.), as needed. Upon a determination by the Zoning Administrator that the proposed subdivision is exempt, a certificate of exemption shall be issued, and the subdivision shall not be subject to these subdivision regulations.

6.1.6.2 A subdivision plat meeting the requirements of G.S. 47-30 shall be prepared for all exempt subdivisions. The plat shall identify the subdivision as being exempt from the requirements of this Ordinance and shall be submitted to the Zoning Administrator for review. Following his/her review of the subdivision plat, the Zoning Administrator shall sign it and provide a copy to the applicant. The signed plat shall be recorded by the applicant with the Lee County Register of Deeds within thirty (30) days of being signed.

6.1.7 RECORDATION OF UNAPPROVED PLAT PROHIBITED

The Register of Deeds shall not file or record any subdivision plat required by this Ordinance until such plat shall have been approved, and such approval evidenced thereon, in accordance with the regulations set forth in this Article.

6.1.8 SALE OF PROPERTY IN VIOLATION OF THIS ORDINANCE PROHIBITED

No land described in this Section shall be subdivided or sold, or transferred until each of the

following conditions has occurred in accordance with these regulations:

6.1.8.1 the subdivider or his authorized agent has submitted a conforming sketch plat of the subdivision to the Department of Community Development; and

6.1.8.2 the subdivider or his authorized agent has obtained approval of the sketch plat, a preliminary plat (when required), and a final plat as provided in this Article; and

6.1.8.3 the subdivider or his authorized agent files the approved final plat with the Register of Deeds.

6.1.9 CONTRACTS TO PRE-SELL

The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under the subdivision ordinance or recorded with the Register of Deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under the subdivision ordinance and recorded with the Register of Deeds in accordance with N.C.G. S. 160D-807(c). No local government body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat. Changes to the preliminary and final plats are possible, and the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat.

6.1.10 VIOLATIONS

Violations of the provisions of this section shall be subject to the enforcement and penalty provisions set forth in Article 1 of this Ordinance. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from these penalties. The jurisdiction may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the courts shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with this Ordinance.

Building permits required pursuant to G.S. 160D-1110 may be denied for lots that have been illegally subdivided. In addition to other remedies, the jurisdiction may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act of conduct per G.S. 160D-807(a).

6.1.11 CLASSIFICATION OF APPLICATIONS

Before any land is subdivided, the owner of the property proposed to be subdivided, or his authorized agent, shall apply for and secure approval of the proposed subdivision in accordance with the procedures established in this Article 6.

6.1.12 COORDINATION OF FLEXIBLE ZONING APPLICATIONS WITH SUBDIVISION APPROVAL

An application for a site plan (see UDO § 3.6) or a Conditional Use District (see UDO §3.4) may be initiated concurrent with the initiation of an application for approval of a preliminary subdivision plat.

6.1.13 LOTS REQUIRING A PRIVATE SEPTIC SYSTEM IN ORDER TO BE DEVELOPED

All proposed lots that would require a private septic system to be developed must be approved by either a licensed soil scientist or the Lee County Environmental Health Department prior to the plat being recorded.

6.2 MINOR SUBDIVISIONS

6.2.1 MINOR SUBDIVISIONS DEFINED

6.2.1.1 CITY OF SANFORD

The City of Sanford, including the ETJ, defines a minor subdivision as either of the following:

- (a) Any subdivision which contains not more than six (6) lots, including the parent or residual parcel, with frontage on an existing publicly-maintained street, and does not involve the extension of any public or private street for access to interior property; does not involve the extension of public water, sewer, or other public improvements; does not adversely affect the remainder of the parcel or adjoining property; or require an exception from any requirement of this ordinance; or
- (b) The creation of a single lot that does not have direct public street frontage. Such lots shall be allowed subject to the following conditions:
 - (1) lot contains a minimum of two (2) acres in area,
 - (2) lot shall be accessed via a recorded access easement of at least 30 feet in width, and
 - (3) lot shall be restricted to development as one single-family dwelling.
 - (4) Creation of multiple lots (a subdivision) using this method shall be prohibited.

6.2.1.2 LEE COUNTY AND THE TOWN OF BROADWAY

Lee County and the Town of Broadway, including the ETJ, defines a minor subdivision as either of the following:

- (a) Any subdivision which contains not more than six (6) lots, including the parent or residual parcel, with frontage on an existing publicly-maintained street, and does not involve the extension of any public or private street for access to interior property; does not involve the extension of public water, sewer, or other public improvements; does not adversely affect the remainder of the parcel or adjoining property; or require an exception from any requirement of this ordinance.
- (b) Any subdivision which contains not more than three (3) lots, and does not involve the extension of any public or private street for access to interior property; does not involve the extension of public water, sewer, or other public improvements; or require a variance from any requirement of this ordinance, provided that:
 - No lot is less than the required minimum lot size of the respective zoning district.
 - Access to interior lots is provided by a perpetual, private access easement, which has a minimum width of 30 feet, and connects directly to an existing publicly maintained road.

- Each lot fronts or abuts the private access easement or an existing, publicly maintained road.
- No more than three (3) lots are created along the 30-foot easement.

6.2.1.2.1 Any parent parcel that is subdivided as a Minor Subdivision under the standards set forth in § 6.2.1.1 and § 6.2.1.2 may be further subdivided, so long as the total number of lots created, including the parent or residual parcel, does not exceed six (6) lots.

6.2.1.2.2 For minor subdivisions within unincorporated Lee County, no more than six (6) total lots shall be created from one parent parcel under common ownership within a period of one (1) calendar year.

6.2.1.2.3 For minor subdivisions within the City of Sanford and Town of Broadway, including their respective ETJs, no more than six (6) total lots shall be created from one parent parcel under common ownership within a period of three (3) calendar years.

6.2.2 ACCESS EASEMENTS ASSOCIATED WITH MINOR SUBDIVISIONS

6.2.2.1 Access easements may adjoin each other, but shall not intersect at any point. No more than two access easements of 30 feet in width shall run parallel and adjoin each other at any point on a parcel.

6.2.2.2 Access easements shall not be impacted by or occupy the same space as permanent structures, bodies of water, or other practically impassible existing conditions.

6.2.3 GENERAL SUBMISSION REQUIREMENTS

6.2.3.1 Only a final plat is required for approval of a minor subdivision.

6.2.3.2 Applications for final plat approval shall be submitted to the Administrator for completeness review. Appendix B outlines the information that is to be submitted with an application for any type of subdivision plat. The Administrator shall determine whether the application is complete and complies with the submission requirements set forth in Appendix B. If the application is incomplete or the submission requirements have not been complied with, the Administrator shall so notify the Applicant, specifying the deficiencies. Incomplete and/or non-compliant submissions shall not be processed.

6.2.3.3 The Administrator shall render a determination as to whether the plat is approved, approved with conditions, or denied pursuant to §6.2 of this Ordinance and NCGS §160D-804. If disapproved, the Administrator shall advise the subdivider of such action and shall indicate the reasons for denial.

6.2.4 RECORDING A FINAL PLAT

6.2.3.1 Within 90 days of final plat approval, the applicant shall file the plat with the Register of Deeds as provided by law. The final plat approval shall expire within the above-referenced time

period, unless the administrator has granted an extension. The Administrator may grant up to two extensions of final plat approval each of up to six (6) months. Failure to record the final plat within the time frame noted shall cause the final plat approval to be void. The applicant shall return a copy of the recorded plat to the office of the Administrator. The final plat shall not be deemed a site-specific vesting plan pursuant to NCGS §160D-108 until it has been properly recorded.

6.2.3.2 As required by NCGS §47-30.2, a plat to be recorded shall be submitted to a Review Officer before the map or plat is presented to the Register of Deeds for recording. The Review Officer shall certify the map or plat if it complies with all statutory requirements for recording. A certification shall be substantially similar to that found in Appendix B. The Register of Deeds shall not accept for recording any map or plat required to be submitted to the Review Officer unless the map or plat has the certification of the Review Officer affixed to it.

6.3 MAJOR SUBDIVISIONS

6.3.1 MAJOR SUBDIVISION DEFINED

A major subdivision is defined as any subdivision which is not classified as a minor subdivision, including, but not limited to:

- (1) Subdivisions of seven (7) or more lots; or
- (2) Any size subdivision which requires the extension of a public or private street; or
- (3) Any size subdivision which requires the extension of public water, sewer, or other public improvements; or
- (4) Any size subdivision which requires an exception from the requirements of this Ordinance.

The following steps are required:

- Sketch Plat
- Preliminary Plat
- Final Plat

6.3.2 SKETCH PLAT SUBMISSION REQUIREMENTS

6.3.2.1 PURPOSE

The sketch plat approval process and preapplication conference provides an opportunity for the applicant to present its basic concept to local planning officials and receive their input, suggestions, and concerns. This procedure permits the developer to go before the Department of Community Development with the description, but not full engineering details of the project. The sketch plat lays out the approximate location of existing features and planned construction and provides ownership information. Because of the preliminary and summary description of the development, the sketch plat does not permit development. However, the developer is given the opportunity to learn of suggestions which can be incorporated into the formal preliminary plan application without incurring significant expenditures.

6.3.2.2 INITIATION

The applicant shall schedule an appointment and meet with the Department of Community Development to discuss a sketch plat. The Department of Community Development shall also advise the applicant, when appropriate, to discuss the proposed subdivision with those officials who must eventually approve those aspects of the subdivision plat coming within their jurisdiction. If the plat is to be submitted in two (2) or more phases, a Master Plan shall be submitted which shows the sketch plat and preliminary plat for the entire subdivision.

6.3.3 TECHNICAL REVIEW COMMITTEE

The Technical Review Committee (TRC) is a multi-departmental body that is responsible for review and approval of major development projects, including all major subdivision preliminary plats. The Technical Review Committee is comprised of representatives from various departments, agencies, and organizations. The purpose of the TRC review is to provide an opportunity for a

comprehensive review of major projects, provide constructive comments to applicants, and ensure compliance with local and state codes, regulations and technical standards.

6.3.4 PRELIMINARY PLAT (CITY OF SANFORD, INCLUDING ETJ)

TABLE 6.3-1: MAJOR SUBDIVISION REVIEW PROCESS FOR THE CITY OF SANFORD (INCLUDING ETJ)

MAJOR SUBDIVISION REVIEW & APPROVAL PROCESS (CITY OF SANFORD, INCLUDING ETJ)
SKETCH PLAT
Pre-Application Conference with Community Development Department staff
Technical Review Committee (TRC) Concept Review <i>(optional)</i>
PRELIMINARY PLAT
Technical Review Committee Full Review
FINAL PLAT
Final Plat Approval and Recordation

6.3.4.1 PURPOSE

The preliminary plat application involves an examination of the proposal in much greater detail than at the sketch plat stage, since this stage determines whether the project will be approved, and if so, the conditions that will be required. Preliminary plat approval is the key discretionary decision-making point in the approval process. The applicant is required to submit, as applicable, detailed information as to all aspects of the development, including street layout, preservation of natural site features, and recreational and parking facilities, to assure that the decision-makers and all parties interested in the project have the opportunity to review all significant facets of the project.

6.3.4.2 APPLICABILITY

Approval of the preliminary plat is required for any tract where the eventual platting of the property involves a major subdivision. No final plat shall be approved until a preliminary plat for the property has been approved.

6.3.4.3 INITIATION

After the Department of Community Development has approved a sketch plat for a major subdivision, then the subdivider may file an application for approval of a preliminary plat. The application shall be filed with the Department of Community Development.

6.3.4.4 DECISION

- a) After the application for preliminary plat approval is certified as complete, the Department of Community Development shall place the plat on the agenda of the next regularly scheduled meeting of the Technical Review Committee.
- b) The Department of Community Development shall refer copies of the plat and any accompanying material to those public officials and agencies concerned with technical

review of new development, including, but not limited to, the building inspector, the appropriate jurisdiction's Fire Marshal, the appropriate jurisdiction's Public Works Department, Lee County Health Department, Lee County School Board, the district engineer of the North Carolina Department of Transportation, the appropriate county soil conservation service office, and any consulting engineer retained by the Jurisdiction, for review and recommendation. Such agencies may review and comment as to whether the application satisfies the requirements of this Ordinance or any other requirements of state or federal law applicable to subdivision plats. A preliminary plat shall not be placed on the Technical Review Committee agenda until it has been deemed complete by the Department of Community Development.

- c) The Technical Review Committee shall review and take action on each preliminary plat. The Technical Review Committee shall approve, disapprove, or conditionally approve the application for a preliminary plat subject to the following:
- Approval shall be noted on at least two copies of the preliminary plat. One (1) copy shall be retained by the Community Development Department, and one (1) copy shall be given to the subdivider.
 - If the preliminary plat is disapproved, Community Development staff shall specify the reasons for such action in writing. One (1) copy of such reasons shall be retained by the Department of Community Development, and one (1) copy of such reasons shall be given to the applicant. If the preliminary plat is disapproved, the subdivider may make the recommended changes and submit a revised preliminary plat.
 - If the preliminary plat is conditionally approved, Community Development staff shall specify the reasons for such action in writing. One (1) copy of such reasons shall be retained by the Department of Community Development, and one (1) copy of such reasons shall be given to the applicant. If the preliminary plat is conditionally approved, the subdivider may make the recommended changes and submit a revised preliminary plat to the Zoning Administrator or his/her designee for review.
- d) For preliminary plats that require a subdivision exception pursuant to §6.3.6 of this Ordinance, the Technical Review Committee shall only provide an initial review. Final review and approval of a preliminary plat with a subdivision exception, however, shall be determined by the Zoning Administrator or his/her designee.

6.3.4.5 SCOPE OF APPROVAL

6.3.4.5.1 Approval of the preliminary plat by the Technical Review Committee shall allow a subdivider to proceed with the preparation of the final plat.

6.3.4.5.2 Approval of the preliminary plat by the Technical Review Committee without approved construction plans shall not constitute the necessary approval for submittal of the final plat.

6.3.4.5.3 Should the plat be approved subject to conditions or labeling corrections, the plat shall be revised and resubmitted to the Department of Community Development with all corrections within 60 days of the Technical Review Committee's approval. Failure to return a corrected plat within this time period shall constitute a violation. Additionally, no final plat may be approved until a corrected copy of the preliminary plat has been filed with the Department of Community Development.

6.3.4.5.4 The preliminary plat shall serve as a guide in the preparation of the final subdivision plat, which must be submitted for final approval and recordation upon fulfillment of the requirements of this Article.

6.3.4.5.5 The preliminary plat shall be valid for five (5) years after its final approval. A preliminary plat shall become void if a final plat is not approved within this time period. Final approval of a phase or portion of a preliminary plat shall re-establish the effective date for measuring the time period of a preliminary plat approval.

6.3.4.6 REVISING APPROVED PRELIMINARY PLAT

6.3.4.6.1 MINOR AMENDMENTS

The Department of Community Development shall have authority to approve the following deviations from an approved preliminary plat:

- A change in the location of not more than ten percent (10%) of the number of lots;
- A change in the location of any part of open space acreage by not more than ten percent (10%) of the gross acreage of the proposed subdivision; or
- A change in the location of any part of proposed street alignment and lot configuration of more than ten percent (10%) of the gross acreage so long as the number of external access points is not decreased and the minimum street connectivity ratio as set forth in Article 10 is maintained.
- Changes to within parcel boundaries which do not affect external property lines.

6.3.4.6.2 MAJOR AMENDMENTS

All other changes to an approved Preliminary Plat that do not meet the standards of this Section shall require the filing and approval of a new Preliminary Plat.

6.3.4.7 PHASING OF PRELIMINARY PLAT

6.3.4.7.1 A preliminary plat may be approved with multiple phases where it is the intent of the landowners to proceed to final plats covering only a portion of the tract at any one time.

6.3.4.7.2 For each approved phase, the developer shall have up to five (5) years to submit the final plat for that respective phase.

6.3.4.7.3 The applicant may submit for an extension of the approved phase beyond the five (5) year limit. All subsequent extensions will be for two (2) years. Applications shall be submitted to

the Department of Community Development. Failure to record a plat for any phase within the aforementioned five-year period shall result in the expiration of the preliminary plat’s approval. Expired preliminary plats shall not be subject to an extension of their approval, but the applicant must instead submit a new application for a preliminary plat and begin a new preliminary plat review and approval process based upon the most recent developments standards.

6.3.4.7.4 Any preliminary plat receiving approval within the years of January 1st, 2021 through December 31st, 2023 shall receive an automatic extension not to exceed five (5) years.

6.3.5 PRELIMINARY PLAT (UNINCORPORATED LEE COUNTY AND TOWN OF BROADWAY, INCLUDING ETJ)

TABLE 6.3-2: MAJOR SUBDIVISION REVIEW PROCESS FOR UNINCORPORATED LEE COUNTY AND THE TOWN OF BROADWAY (INCLUDING ETJ)

MAJOR SUBDIVISION REVIEW & APPROVAL PROCESS (LEE COUNTY and TOWN OF BROADWAY, INCLUDING ETJ)
SKETCH PLAT
Pre-Application Conference with Community Development Department staff
Technical Review Committee (TRC) Concept Review <i>(optional)</i>
PRELIMINARY PLAT
Technical Review Committee Full Review
Planning Board Review and Recommendation
Governing Board Review and Final Vote
FINAL PLAT
Final Plat Approval and Recordation

6.3.5.1 PURPOSE

The preliminary plat application involves an examination of the proposal in much greater detail than at the sketch plat stage, since this stage determines whether the project will be approved, and if so, the conditions that will be required. Preliminary plat approval is the key discretionary decision-making point in the approval process. The applicant is required to submit, as applicable, detailed information as to all aspects of the development, including street layout, preservation of natural site features, and recreational and parking facilities, to assure that the decision-makers and all parties interested in the project have the opportunity to review all significant facets of the project.

6.3.5.2 APPLICABILITY

Approval of the preliminary plat is required for any tract where the eventual platting of the property involves a major subdivision. No final plat shall be approved until a preliminary plat for the property has been approved.

6.3.5.3 INITIATION

After the Department of Community Development has approved a sketch plat for a major

subdivision, then the subdivider may file an application for approval of a preliminary plat. The application shall be filed with the Department of Community Development.

6.3.5.4 DECISION

- (a) After the application for preliminary plat approval is certified as complete, the Department of Community Development shall place the plat on the agenda of the next regularly scheduled meeting of the appropriate local Planning Board.
- (b) The Department of Community Development shall refer copies of the plat and any accompanying material to those public officials and agencies concerned with technical review of new development, including, but not limited to, the building inspector, the appropriate jurisdiction's Fire Marshal, the appropriate jurisdiction's Public Works Department, Lee County Health Department, Lee County School Board, the district engineer of the North Carolina Department of Transportation, the appropriate county soil conservation service office, and any consulting engineer retained by the Jurisdiction, for review and recommendation. Such agencies may review and comment as to whether the application satisfies the requirements of this Ordinance or any other requirements of state or federal law applicable to subdivision plats. A preliminary plat shall not be placed on the local Planning Board agenda until it has been deemed complete by the Department of Community Development.
- (c) The Planning Board shall review and take action on each preliminary plat. The Planning Board shall approve, disapprove, or conditionally approve the application for a preliminary plat subject to the following:
 - Approval shall be noted on at least two copies of the preliminary plat. One (1) copy shall be retained by the Community Development Department, and one (1) copy shall be given to the subdivider.
 - If the preliminary plat is disapproved, Community Development staff shall specify the reasons for such action in writing. One (1) copy of such reasons shall be retained by the Department of Community Development, and one (1) copy of such reasons shall be given to the applicant. If the preliminary plat is disapproved, the subdivider may make the recommended changes and submit a revised preliminary plat.
 - If the preliminary plat is conditionally approved, Community Development staff shall specify the reasons for such action in writing. One (1) copy of such reasons shall be retained by the Department of Community Development, and one (1) copy of such reasons shall be given to the applicant. If the preliminary plat is conditionally approved, the subdivider may make the recommended changes and submit a revised preliminary plat to the Zoning Administrator or his/her designee for review.
 - A timely decision of the Planning Board to approve, disapprove, or conditionally approve the application for a preliminary plat shall be considered final and shall be referred to the appropriate Governing Body for review.

- (d) The preliminary plat shall then be transmitted to the Governing Body for consideration at their next regular meeting. A timely decision of the Governing Body to approve or disapprove the application for a preliminary plat shall be considered final.

6.3.5.5 SCOPE OF APPROVAL

6.3.5.5.1 Approval of the preliminary plat by the Governing Body shall allow a subdivider to proceed with the preparation of the final plat.

6.3.5.5.2 Approval of the preliminary plat by the Governing Body without approved construction plans shall not constitute the necessary approval for submittal of the final plat.

6.3.5.5.3 Should the plat be approved subject to conditions or labeling corrections, the plat shall be revised and resubmitted to the Department of Community Development with all corrections within 60 days of the Governing Body's approval. Failure to return a corrected plat within this time period shall constitute a violation. Additionally, no final plat may be approved until a corrected copy of the preliminary plat has been filed with the Department of Community Development.

6.3.5.5.4 The preliminary plat shall serve as a guide in the preparation of the final subdivision plat, which must be submitted for final approval and recordation upon fulfillment of the requirements of this Article.

6.3.5.5.5 The preliminary plat shall be valid for three (3) years after its final approval. A preliminary plat shall become void if a final plat is not approved within this time period. Final approval of a phase or portion of a preliminary plat shall re-establish the effective date for measuring the time period of a preliminary plat approval.

6.3.5.6 REVISING APPROVED PRELIMINARY PLAT

6.3.5.6.1 MINOR AMENDMENTS

The Department of Community Development shall have authority to approve the following deviations from an approved preliminary plat:

- A change in the location of not more than ten percent (10%) of the number of lots;
- A change in the location of any part of open space acreage by not more than ten percent (10%) of the gross acreage of the proposed subdivision; or
- A change in the location of any part of proposed street alignment and lot configuration of more than ten percent (10%) of the gross acreage so long as the number of external access points is not decreased and the minimum street connectivity ratio as set forth in Article 10 is maintained.
- Changes to within parcel boundaries which do not affect external property lines.

6.3.5.6.2 MAJOR AMENDMENTS

All other changes to an approved Preliminary Plat that do not meet the standards of this Section shall require the filing and approval of a new Preliminary Plat.

6.3.5.7 PHASING OF PRELIMINARY PLAT

6.3.5.7.1 A preliminary plat may be approved with multiple phases where it is the intent of the landowners to proceed to final plats covering only a portion of the tract at any one time.

6.3.5.7.2 For each approved phase, the developer shall have up to three (3) years to submit the final plat for that respective phase.

6.3.5.7.3 The applicant may submit for an extension of the approved phase beyond the three (3) year limit. All subsequent extensions will be for two (2) years. Applications shall be submitted to the Department of Community Development for forwarding and review by the appropriate local Planning Board at their next regular meeting. Failure to record a plat for any phase within the aforementioned three-year period shall result in the expiration of the preliminary plat's approval. Expired preliminary plats shall not be subject to an extension of their approval, but the applicant must instead submit a new application for a preliminary plat and begin a new preliminary plat review and approval process based upon the most recent developments standards.

6.3.6 FINAL PLAT

6.3.6.1 PURPOSE

This section establishes procedures for the administrative approval of final plats. The purpose of a final plat is to ensure that all the conditions attached to preliminary approval (in the case of a major subdivision) and this Ordinance (in the case of a major or minor subdivisions) are complied with. This section also permits a subdivider to take necessary actions to prepare maps, plats, and documents post a performance bond, and perform other minor acts. This section does not permit the Department of Community Development to attach new conditions to final approval or to deny final approval for reasons not presented during preliminary approval.

6.3.6.2 APPLICABILITY

There shall be a final plat for each subdivision which receives preliminary plat approval. No final subdivision plat shall be recorded until a final plat has been approved as provided in this Section.

6.3.6.3 INITIATION

The materials required by Appendix B shall be submitted to the Department of Community Development for a determination as to whether it complies with the approved preliminary plat. The subdivider may submit final plat copies for only that portion of the approved preliminary plat which is proposed for recordation and development at that time, if such portion conforms to all requirements of this Article. The final plat shall conform to the approved preliminary plat. Any deviation from the approved preliminary plat which does not constitute a Minor Amendment as set forth in § 6.4.3.7 shall require additional review and approval by the appropriate jurisdiction's Planning Board and governing board.

6.3.6.4 DECISION

6.3.6.4.1 Upon submittal of the copies of the final plat and other required materials, the

Department of Community Development shall review the application for completeness and shall initiate and coordinate review by affected local and state agencies to determine substantial compliance with the approved preliminary plat and general compliance with the provisions of this ordinance and other applicable laws and regulations.

6.3.6.4.2 The final plat and related materials shall be approved or disapproved by the Department of Community Development. Approval shall be in the form of a written letter to the subdivider (or contact person as listed on the application) advising that the final plat meets all requirements of this Ordinance and that the original final plat may be submitted to the Department of Community Development.

6.3.6.4.3 Upon receipt of all necessary signatures of the final plat, the applicant shall record it with the Register of Deeds.

6.3.6.4.4 Except as provided in §6.4 (Subdivision Improvement Agreements), all applicants shall complete all street, sanitary, and other public improvements of the subdivision as required by the Ordinance before the final plat is recorded. Such public improvements shall be accepted by the Department of Community Development, Department of Public Works (within the incorporated area and ETJ of the City), the North Carolina Department of Transportation (as applicable), and any other agency with jurisdiction to review and inspect such improvements.

6.3.6.4.5 The final subdivision plat application shall be accompanied by all formal irrevocable offers of dedication to the public of all streets, local government uses, utilities, parks, and easements, in a form approved by the respective Attorney; and the subdivision plat shall be marked with a notation indicating the formal offers of dedication as provided in Appendix B.

6.3.6.4.6 Whenever a subdivider applies for approval of a final plat which contains only a portion of the land encompassed in the approved preliminary plat and which includes required open space, the subdivider shall either apply for dedication of the land as included in the phase or provide a financial contribution which is proportional to the population expected to reside in the area of the final plat. The financial contribution shall be calculated in the same manner as set forth in Section 6.5.4 of this Ordinance.

6.3.6.5 RECORDING A FINAL PLAT

The applicant shall file the plat with the Register of Deeds as provided by law within ninety (90) days after final approval. The final plat approval shall expire within the above-referenced time period, unless the Department of Community Development has granted an extension. Failure to record the final plat within the time frame noted shall cause the final plat approval to be void and shall require a new application. The final plat shall not be deemed a site-specific vesting plan pursuant to NCGS 160D-108 until it has been properly recorded.

6.3.7 SUBDIVISION IMPROVEMENT AGREEMENTS

6.3.7.1 COMPLETION OF IMPROVEMENTS

6.3.7.1.1 The Department of Community Development may delay the requirement for the completion of required improvements prior to recordation of the Final Plat if the applicant enters into a Subdivision Improvement Agreement by which the applicant 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.

6.3.7.1.2 If improvements are not completed to the specifications of the local government, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period; provided, however, that the extension shall only be for a duration necessary to complete the required improvements.

6.3.7.1.3 The Applicant shall bear the responsibility to prepare a Subdivision Improvement Agreement. The City of Sanford, Town of Broadway, or Lee County Attorney shall approve any Subdivision Improvement Agreement as to form. The type of performance guarantee shall be at the election of the developer.

6.3.7.1.4 At the discretion of the Department of Public Works, the Department of Public Works may enter into a subdivision improvement agreement with the applicant for a development containing multiple final plats concerning the timing and sequence of roadway, water, wastewater, drainage, public school, and park or open space dedication and improvements. Notwithstanding any provision in this Ordinance to the contrary, the subdivision improvement agreement shall determine the time when the required improvement or dedication for multiple final plat developments shall occur.

6.3.7.2 PERFORMANCE SECURITY

6.3.7.2.1 Whenever the Department of Public Works permits an applicant to enter into a Subdivision

Improvement Agreement, the Applicant shall provide sufficient security to ensure completion of all required public improvements. The security shall be any of the following:

- a surety bond issued by any company authorized to do business in North Carolina,
- a letter of credit issued by any financial institution licensed to do business in North Carolina, or
- another form of guarantee that provides equivalent security to a surety bond or letter of credit,

The type of performance guarantee shall be at the election of the developer.

6.3.7.2.2 The performance guarantee shall originate with the developer. An itemized cost estimate of all improvements intended for public maintenance shall be prepared by a licensed civil engineer based upon the approved construction plans on file with the Department of Public Works. The performance guarantee shall be in an amount approved by the Department of Public

Works as reflecting 125 percent of the reasonably estimated cost of the improvements in the approved construction plan and shall be sufficient to cover all promises and conditions contained in the Subdivision Improvement Agreement. The performance guarantee shall cover the estimated costs of all proposed improvements intended for public maintenance that are not constructed or installed prior to final plat approval and recordation.

6.3.7.2.3 In addition to all other security, when the appropriate jurisdiction participates in the cost of an improvement, the applicant shall provide a performance bond from the contractor, with the appropriate jurisdiction as a co-obligee.

6.3.7.2.4 If security is provided in the form of a cash escrow, the applicant shall deposit with the Finance Department of Lee County, the Town of Broadway, or the City of Sanford, as applicable, a cash amount or certified check in an amount not less than the amount specified by the Department of Public Works.

6.3.7.2.5 The performance guarantee shall accrue to the appropriate jurisdiction for administering the construction, operation, and maintenance of the improvements.

6.3.7.2.6 Where oversized facilities are required, the Department of Public Works and applicant shall specify a reimbursement procedure in the Subdivision Improvement Agreement.

6.3.7.3 RELEASE OF PERFORMANCE SECURITY

Upon completion of all improvements as covered by the Subdivision Improvement Agreement, the Department of Public Works (or his/her designee) shall inspect the work. If the Department of Community Development determines that the work is satisfactory and complete, and the improvements have been accepted, letters of credit or cash escrow shall be returned to the developer, and surety bonds shall be released. Upon satisfactory completion of improvements secured by a surety bond, upon request by a developer the appropriate local government shall timely provide written acknowledgement that the required improvements have been completed and the performance security shall be released.

6.3.7.4 FAILURE TO COMPLETE IMPROVEMENTS

If a Subdivision Improvement Agreement has been executed and security has been posted and required public improvements are not installed pursuant to the terms of the Agreement, the Department of Public Works may:

- Declare the Agreement to be in default thirty days prior to the expiration of the guarantee instrument, and require that all public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;
- Obtain funds pursuant to the surety and complete the public improvements by itself or through a third party;
- Assign its right to receive funds pursuant to 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

- Exercise any other rights available under the law.

6.3.8 SUBDIVISION EXCEPTIONS

6.3.8.1 Subdivision exceptions shall be available only for Major Subdivisions in conjunction with the application for preliminary plat approval pursuant to §6.3.3.4(d) of this Ordinance.

6.3.8.2 Where the Zoning Administrator or his/her designee finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve exceptions to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that the exception shall not have the effect of nullifying the intent and purpose of these regulations.

6.3.8.3 All such exceptions shall be approved by the Zoning Administrator or his/her designee as part of the preliminary plat approval.

6.3.9 DEDICATION AND ACCEPTANCE OF PUBLIC AREAS

- (a) Rights-of-Way and Easements. The approval of a final plat constitutes dedication but does not constitute acceptance by the jurisdiction or the public of the right-of-way of each public street and easement shown on the plat. The approval of a plat does not constitute acceptance for maintenance of other improvements in the right-of-way such as street paving, utility lines, drainage facilities or sidewalks. When located within the corporate limits of a municipality, such dedications may be accepted only by resolution of the municipality's governing board or by their designee following inspection and approval to ensure compliance with specifications established by the jurisdiction or by the jurisdiction exercising control over and maintaining these areas. Until the offer of dedication is accepted by the jurisdiction in either of these manners, the developer shall be responsible for maintenance of those areas.
- (b) Open Space. Land designated as public open space or a park on a plat, in accordance with Article 6 of this Ordinance, shall be considered to be offered for dedication, but not accepted until the municipality's governing board, or their designee, has by express action done so. Until such dedication has been accepted, such areas may be used for open space purposes by its owner or by an association representing owners of lots within the subdivision. Land so offered for dedication shall not be used for any purpose inconsistent with the proposed public use without the approval of the municipality's governing board.
- (c) Sites for Public Facilities. Where a school or other public site is shown on an approved plat recorded with the Lee County Register of Deeds, the site shall either be dedicated for public purpose at the option of the property owner or reserved for acquisition by the Lee

County School Board for a period not exceeding eighteen (18) months from the date of approval of

the preliminary subdivision plan.

- (d) Required Improvements. Improvement requirements shall be fulfilled, or their complete performance guaranteed in accordance with North Carolina General Statute 160D-804 before a final plat shall be approved by the Zoning Administrator for recording.

6.3.10 MAINTENANCE OF COMMON AREAS

6.3.10.1 A legally responsible organization (i.e., homeowners' association, property owners' association, special district, etc.) shall be established to maintain any private streets, open space, or other features and amenities not accepted for public maintenance. Documents to assure private responsibility of future maintenance and repair by a legally responsible organization or a special district shall be provided to the Department of Community Development. The local government shall not be responsible for enforcement of the responsible organization documents.

6.3.11 MASTER PLANS AND PHASED DEVELOPMENTS

6.3.11.1 Applicants intending to develop major subdivisions in two (2) or more phases must propose a conceptual master plan illustrating the full extent of land to be developed. General information should be provided with the master plan, including lot and density layout, internal street system, and prospective open space locations. The submittal of a second phase of development of an original parent tract(s), where only one phase was previously proposed and approved, shall prompt the master plan requirement. Failure to provide a master plan shall prevent the second phase from being placed on any jurisdiction's Planning Board agenda.

6.3.11.1 Subdivisions may be designed to be platted and constructed in phases. A plan for phased development must be approved by the Zoning Administrator. The plan for phased development shall provide for the provision of adequate public facilities to support each and any phase independent of the overall subdivision plan. Access and water supply for fire protection shall be present to the extent required by the North Carolina Fire Prevention Code. In approving the phases, the Zoning Administrator may require that additional streets, water and sewer facilities, or other required public facilities be constructed as part of the phase or phases to ensure that sufficient public facilities will be in place to support each phase or phases independent of any future subdivision development.

6.3.11.2 Final plats for subdivisions developed in phases shall be recorded in accordance with the schedule presented by the applicant during the preliminary plat approval and approved as part of the preliminary plat approval process as specified in Section 3.6 of this Ordinance. The applicant may request, in writing, adjustments of the approved schedule and the Zoning Administrator may grant extensions of up to 12 months for each phase. If the final plat for any phase of the subdivision is not submitted in accordance with the approved schedule, the preliminary plat shall be resubmitted to the Zoning Administrator for review and approval unless the extension(s)

remain within the scope of the vested rights per G.S. 160D-108(d) established in accordance with a site-specific development plan in accordance with Section 3.6 of this Ordinance. Such resubmittal shall be in accordance with the requirements of this Ordinance.

6.4 RESERVED

6.5 OPEN SPACE

6.5.1 PURPOSE

The provisions of this Section require new development to provide open space. The provision of accessible open space, and the preservation of resource lands, provide the following benefits for landowners, applicants, and the community:

- Protection of property values;
- Protection of public health by the provision of recreational opportunities and opportunities for exercise and participation in community activities;
- Protection of health and safety through flood control, protection of water supply, cleansing of air, and separation from hazards;
- Protection of Environmentally Sensitive Areas and natural systems such as wetlands, marshes, streams, rivers, and wildlife diversity and habitat;
- Provision of boundaries between incompatible uses and edges from continuous development;
- Protection of water quality by the retention of existing vegetation and soils;
- The long-term stabilization of property tax rates by providing higher quality development; and
- Minimizing traffic congestion by providing for recreational opportunities within walking distance of new homes and businesses.

This Section implements the following provisions of the Land Use Plan:

- Provide adequate and accessible park and recreation facilities (Parks Recreation & Open Space, Goal 1)
- Achieve quality growth in the Community (Land Use, Goal 2)
- Provide long term quality development and attractive public space (Urban Design, Goal 2)
- Preserve stream valleys for open space corridors and passive recreation (Environmentally-Sensitive Areas, Goal 1)

6.5.2 APPLICABILITY

6.5.2.1 Open space as set forth in this §6.5 shall be required only for major subdivisions or multi-family developments which are located within UN-6, SN-9, SN-12, RN-20 or VND zoning districts and include 30 or more cumulative lots/dwelling units. RA and RR zoning districts are exempt from these standards.

6.5.2.2 For the purposes of this section, “cumulative lots/dwelling units” shall include the total number of lots or dwelling units as created within any single or multi-phased development or subdivision. Multiple developments that are adjoining one another and are developed under the same general ownership shall be considered as cumulative.

6.5.2.3 ACCESSIBILITY

Sidewalks and/or paved walking trails shall be established to connect to—or facilitate future connection to—existing or planned public parks. All open space areas within a proposed development shall be accessible by sidewalks that link open space to the rest of the development. In limited instances, connections to greenway trails or other pedestrian pathways may be permitted instead of sidewalks, at the discretion of the Zoning Administrator or his/her designee.

6.5.2.4 The amount of open space to be reserved shall be the percentage of gross land area as set forth below:

TABLE 6.5-1: OPEN SPACE REQUIREMENTS FOR DEVELOPMENTS WITH FEWER THAN 100 LOTS/UNITS

LOTS/UNITS PROPOSED	ACTIVE OPEN SPACE REQUIRED
30 – 60 LOTS / UNITS	1 POCKET OR MINI-PARK
61 – 99 LOTS / UNITS	2 POCKET OR MINI-PARKS, or 1 LARGER EQUIVALENT PARK

For the purposes of Table 6-5.1, *pocket parks* or *mini-parks* shall be defined as active open space of at least 600 square feet in area and at least 20 feet in width, with at least one permanent trash receptacle and at least one park bench, and at least one of the following:

- Playground equipment
- Athletic facilities (basketball court, pickleball court, etc.)
- Exercise equipment
- Recreational structure (gazebo, sheltered picnic area, etc.)
- Other amenities or features approved by the Zoning Administrator

TABLE 6.5-2: OPEN SPACE REQUIREMENTS BY ZONING DISTRICT (for developments exceeding 100 lots/units)

ZONING DISTRICT	TOTAL OPEN SPACE REQUIRED	ACTIVE OPEN SPACE REQUIRED
RN-20	5%	2%
SN-12	7.5%	3%
SN-9	10%	5%
UN-6	12%	6%
VND	15%	7.5%

For the purposes of this section, “gross land area” shall include the total amount of acreage as included within an undeveloped tract or group of parcels as planned or platted for development.

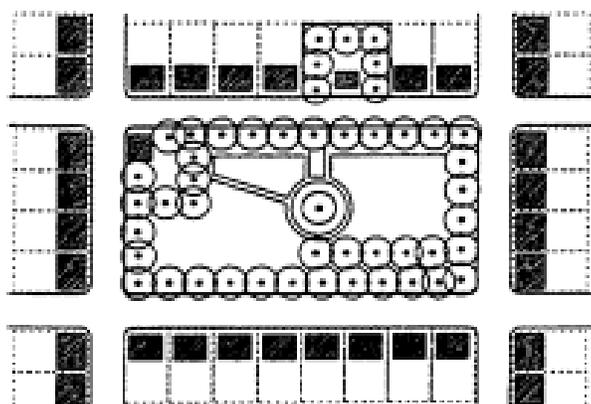
6.5.2.5 Area designated as Open Space shall be no less than 600 square feet in area and at least 20 feet in width. Areas proposed to be utilized as school bus stops and mail kiosks may be exempt from this minimum area requirement.

6.5.2.6 Open water, wetlands, utility easements, land which exceeds eighteen (18%) percent slope and undisturbed floodplains shall be designated as Open Space and may account for up to 50 percent of the total area requirement. Such Open Space shall not count towards the required minimum active Open Space portions unless improved with usable amenities.

6.5.3 TYPES OF OPEN SPACE

Preservation of open space in developing areas serves to meet recreational needs of residents, improve the aesthetic character of the community, enhance air quality, protect water quality, and augment residents’ quality of life. The following open space types and associated diagrams are intended to serve as examples for developers, who are encouraged to creatively incorporate these open space types into their designs.

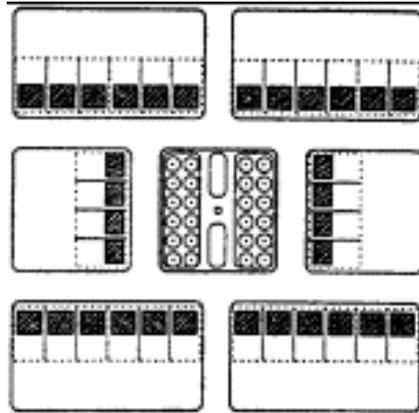
A) Park



Parks shall be bounded by streets on at least two (2) sides of their perimeter.

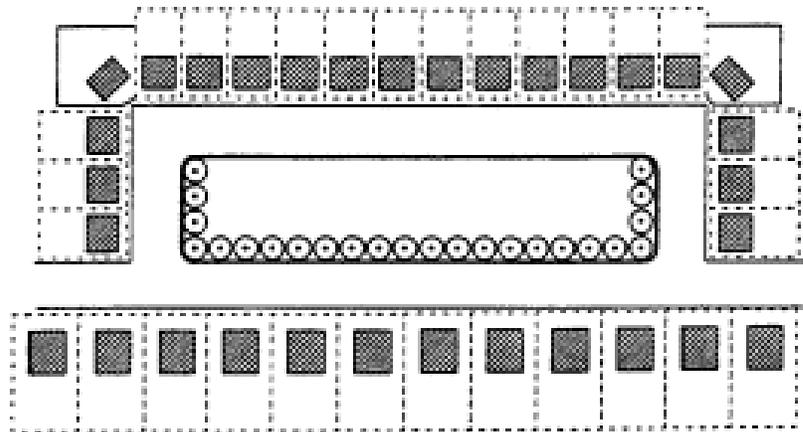
Parks shall be considered as active open space but are areas where both passive and active recreation may occur simultaneously. Improvements such as benches, gazebos, picnic tables, playground and exercise equipment are encouraged for parks.

B) Square

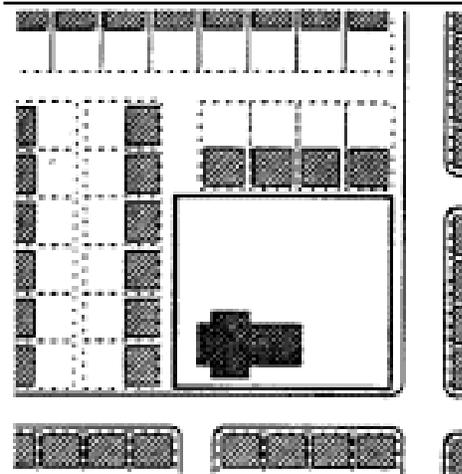


Squares shall be bounded by streets on at least three (3) sides of their perimeter. Squares shall be used in high-density environments where residents have little yard space. Squares are used to bring a natural landscape into a high-density environment. As such, not more than 25% of a square should be impervious surface coverage. Hardscaping shall be of an enhanced decorative finish to improve aesthetic impact for persons viewing and/or visiting the Square (example: brick pavers or decorative concrete edges instead of solid asphalt ribbon or broom finished concrete for walkways).

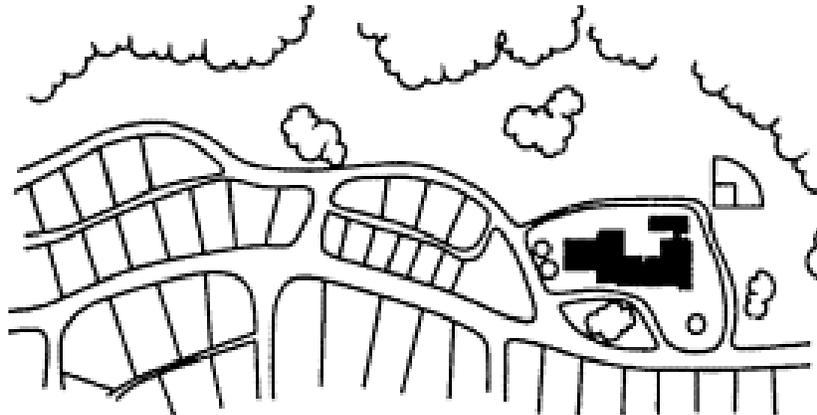
C) Forecourt



Forecourts are open spaces that act as buffers between residential buildings and streets or non-residential buildings. Forecourts are entirely bounded by buildings or streets. Forecourts shall be planted parallel to all primary street rights-of-way as shown in the illustration above.

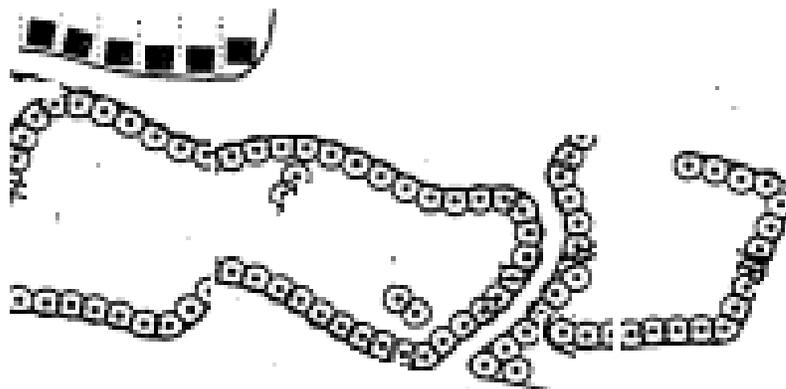
D) Plaza

A plaza should be an open area adjacent to a civic or commercial building. Plazas shall be planted with deciduous trees to provide shade in the summer. Plazas function as gathering places and may incorporate a variety of non-permanent activities such as outdoor farmers markets or craft fairs. Plazas shall match the architectural style of the buildings that they are adjacent to regarding materials and design. Plazas shall be level or gently sloping.

E) Greenway

Greenways are spaces designed to incorporate natural settings such as creeks and significant stands of trees within a neighborhood. Greenways shall have streets or pedestrian ROWs parallel to or integrated into at least 70% of their length. Greenways are used for walking, jogging, biking, and they are used as wildlife corridors. Greenways may have infrequent small-scale active recreational facilities such as playgrounds, although most greenways shall be for pedestrian and/or bicycle recreation.

F) Natural and Agricultural Open Space



Natural and Agricultural Open Space preserves agricultural lands, environmentally sensitive areas such as stream buffers and floodplains, scenic views, cultural features, and rural character that would likely be lost through conventional development approaches. Natural and Agricultural Open Space shall not be considered as active open space.

6.5.4 ACCESS TO OPEN SPACE

All areas to be preserved for open space shall be accessible to pedestrians by one of the following:

- frontage (width as required in this Section) on a public street right-of-way; or
- a recorded pedestrian easement at least fifteen (15) feet wide;
 - such an easement shall include a pedestrian pathway paved or otherwise improved at the discretion of the Zoning Administrator and maintained for access;
 - A cross-section illustrating the technical specifications and manner of construction of the improved pathway shall be included in proposed site plans; or
- fee simple property

6.5.5 FEES IN LIEU OF OPEN SPACE

6.5.5.1 In lieu of land dedication, the appropriate Governing Board may permit the subdivider to contribute a cash payment to the same Governing Board. The cash payment shall be the predevelopment tax value for the amount of dedicated land from the parcel for which the open space is being reserved as required under § 6.5.2 and the cash value of the minimum required improvements for the particular category of parks or open space. The specified contribution shall be determined by the tax value at the time final plat approval is granted. Such tax value shall consider zoning district changes that occur at any time up until final plat approval. Tax deferrals of any kind shall not be used in the calculation of the fees.

6.5.5.2 If, at the option of the appropriate Governing Board it is determined that a cash dedication shall be made, said cash shall be paid to the Finance Department of the appropriate local government, and shall be deposited into a special Parks and Recreation Service Area fund prior to

final plat approval. Money in the fund, including accrued interest, shall be expended solely for acquisition, development or rehabilitation of park land or improvements related thereto. Money in the fund may only be spent by the appropriate local government for acquisition.

6.5.5.3 Collected fees shall be appropriated by the appropriate local government for a specific project to serve residents of the subdivision in a budgetary year within seven years upon receipt of payments or within seven years after the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later. If such fees are not so committed, these fees shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of their lots bears to the total area of all lots in the subdivision.

6.5.6 CONNECTION TO EXISTING PUBLIC PARKS, OPEN SPACE AND/OR GREENWAYS

6.5.6.1 The Department of Community Development shall require connection to an existing or planned community park and/or open space network and/or trails systems (greenways) if the proposed development is adjacent to the boundary of a park and/or open space area as included in a parks or open space plan adopted by the appropriate local government which specifically recites this section. The open space/trail system shall be maintained by the applicant or subsequent owners except in circumstances where the applicant may request to publicly dedicate any trail specifically delineated in the Plan.

6.5.6.2 For development sites in which future public parks or other public open space areas are planned, the applicant may have the option to donate that portion of land to the appropriate local government for such public park or open space designation. The applicant may have this land donation count for any minimum open space percentage required as a part of their overall development. The applicant would not be required to improve the areas intended for future public parks or open spaces, as that responsibility would fall to the appropriate local government.

For development sites in which future greenway trails are planned, the applicant shall dedicate a minimum 20-foot-wide easement along the identified greenway trail space. The area dedicated for a greenway easement within a development shall count towards that development's active open space requirement.

6.5.7 MAINTENANCE

6.5.7.1 GENERALLY

Land designated as Open Space shall be maintained as a park or open space and may not be separately sold, subdivided, or developed except as provided below.

6.5.7.2 OPEN SPACE MAINTENANCE PLAN REQUIRED

Any areas reserved as parks or open space shall be indicated on a preliminary and/or final subdivision plat. An Open Space Maintenance Plan shall be submitted as a part of the application for development approval including the project phasing schedule. This plan shall designate and indicate the boundaries of all open-space areas required by this Ordinance. The plan shall:

-
- Designate areas to be reserved as open space; and
 - Specify the manner in which the open space shall be perpetuated, maintained, and administered

6.5.7.3 MAINTENANCE REQUIREMENTS

6.5.7.3.1 Open Space areas shall be maintained so that their use and enjoyment as Open Space are not diminished or destroyed. Open-space areas may be owned, preserved, and maintained by any of the following mechanisms or combinations thereof:

- Dedication of Open Space to the appropriate local government, an appropriate public agency, or a non-profit entity (such as a land conservancy) if such an agency or entity is willing to accept the dedication and is financially capable of maintaining such Parks and/or Open Space.
- Common ownership of the Open Space by a property owners' association, homeowners' association, or other responsible organization, which assumes full responsibility for its maintenance. The restrictive covenants shall provide that, in the event the property owners' association, homeowners' association, or other responsible organization fails to maintain the Open Space according to the standards of this Ordinance, the appropriate local government may, following reasonable notice:
 - demand that the maintenance deficiency be corrected; or
 - enter the Open Space to maintain same. The cost of such maintenance, if performed by the applicable local government, shall be charged to the appropriate legally responsible organization (homeowners' association, property owners' association, etc.).

6.5.8 PERIMETER GREENBELT

6.5.8.1 The outer perimeter of a residential major subdivision shall be preserved with a minimum 20-foot landscaping buffer ("Perimeter Greenbelt") that preserves existing tree stands, shrubbery, and other vegetation. The perimeter greenbelt is to be demarcated on-site using flags, stakes, silt fences, or other sedimentation control measures, and/or other means to denote limits of disturbance during site preparation and during installation of improvements, as well as illustrated on site plans and plats submitted for review.

6.5.8.2 A perimeter greenbelt shall be required only when a proposed subdivision development site is 10 acres or greater. The perimeter greenbelt requirement may be waived for certain infill developments at the discretion of the Zoning Administrator.

6.5.8.3 The total area of the preserved perimeter greenbelt may be considered as part of the passive open space requirement set forth in Table 6.5-1.

6.5.8.4 The perimeter greenbelt shall be incorporated into the major subdivision design as non-developable common open space, to be maintained by the established appropriate legally

responsible organization (homeowners' association, property owners' association, etc.). Environmentally sensitive areas (floodplains, wetlands, streams, creeks, etc.) located along the perimeter of the project site shall be included within the perimeter greenbelt.

6.5.8.5 The perimeter greenbelt shall extend along the entire exterior property line of the development site. The perimeter greenbelt shall not be required where stub streets, utility easements, neighborhood entryways, or other design elements are needed or required.

6.5.8.6 The perimeter greenbelt shall not supersede other landscape buffer requirements, such as those found in Article 7 of this Ordinance.

6.5.8.7 Single-family lots that abut a proposed perimeter greenbelt encompassing environmentally sensitive areas (wetlands, floodplains, etc.) may have lot sizes reduced as practically needed, as determined by the discretion of the Zoning Administrator.

6.5.8.8 Existing vegetation within the perimeter greenbelt is to be preserved. Areas that would be reserved as a perimeter greenbelt for new developments that are without significant vegetation (farmland or "greenfield" sites, for example) shall be maintained as they exist, and vegetation permitted to grow to form a buffer naturally.

6.5.9 DISTURBANCE OF PRESERVED PERIMETER GREENBELT

6.5.9.1 Existing trees, shrubs, and other vegetation are intended to be preserved and undisturbed. If such plantings are damaged during site preparation or construction of the development, it shall be the developer's responsibility to replace and replant any displaced or damaged plantings.

6.5.9.2 Existing trees, shrubs, and other vegetation within the 20-foot-wide perimeter greenbelt may be intentionally disturbed without civil penalties incurred as detailed in §6.5.9.3 in order to complete construction of necessary site design elements (e.g. retaining walls, retention ponds, etc.) abutting the perimeter buffer, so long as the disturbed or removed shrubs, trees, and other vegetation within the demarcated perimeter buffer are replaced.

6.5.9.3 A base fine of \$10.00 per square foot of disturbed area, not to exceed \$50,000.00 in total, shall be incurred by the developer in the event of the perimeter greenbelt being disturbed or plantings within the greenbelt being damaged or removed during site preparation and development construction.

For every 300 square feet of area within the perimeter of area within the perimeter landscape buffer that is disturbed, the following plant species must be installed:

- one large deciduous tree of at least a 2-inch caliper and at least 12 feet in height
- one large evergreen tree of at least a 2-inch caliper and at least 8 feet in height
- three (3) medium shrubs of at least 2 feet in height at the time of planting

6.5.10 IMPROVEMENT OF OPEN SPACE

Active open space shall be planned and improved, accessible and usable by residents. Improved shall mean cleared of underbrush and debris and enhanced with functional elements for residents' recreation.

6.5.10.1 Dedicated active open space shall have multi-functional or recreational features for residents' use and enjoyment.

Each individual section of dedicated active open space shall have at least one (1) of the following elements:

- Recreational structure (gazebos, pergolas, sheltered picnic tables, etc.)
- Community garden
- Statue / Fountain
- Improved walking surface
- Demarked and fenced-in athletic field
- Dog Park
- Tot Lot
- Splash pad
- Swimming pool
- Exercise or playground equipment
- Other amenities or features approved by the Zoning Administrator

6.5.10.2 All designated active open spaces must contain at least one (1) park bench and one (1) permanent trash receptacle.

6.5.10.3 All designated open spaces must be clearly labeled on concept sketches, site plans, and preliminary plats. Prior to the approval and recordation of the final plat, the developer must submit architectural renderings of all proposed active open space to the Department of Community Development for review and approval.

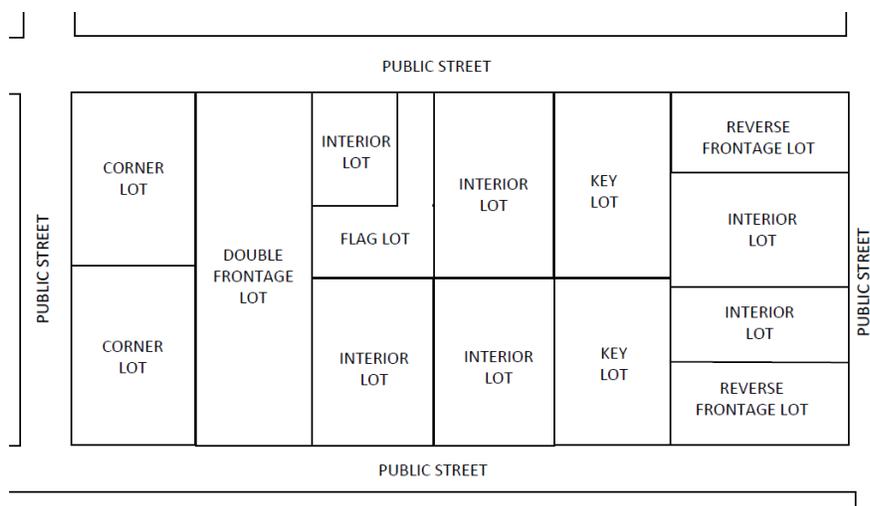
6.6 LOT DESIGN STANDARDS

6.6.1 APPLICABILITY

6.6.1.1 The provisions of this § 6.6 shall apply to any newly created or proposed Lot or Parcel resulting from a subdivision of land as provided for this Article.

6.6.1.2 All newly created lots shall meet or exceed the zoning district dimensional standards of § 4.7 and shall be designed for their potential uses, so that adequate buildable area is provided and adequate room for required setbacks (see § 4.7) and buffer yards (see Article 7) will exist on the lot.

FIGURE 6.6-1: EXAMPLE OF LOT TYPES



6.6.2 CORNER LOTS

6.6.2.1 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.

6.6.3 LOT FRONTAGE REQUIREMENTS

6.6.3.1 Unless otherwise permitted herein, every lot resulting from a subdivision of land as provided for in Article 6 of this Ordinance shall abut and have direct access to a publicly maintained street or other public right-of-way legally dedicated, except as provided in this section.

6.6.3.2 For proposed subdivisions with frontage on an existing public street, the maximum number of lots to be created shall be limited to six (6) lots. Any proposed subdivision proposing more than six lots shall require the additional lots to be served by a newly constructed internal public street.

6.6.3.3 Frontage on a public street shall not be required in the following situations provided, however, that an easement providing access to the public street shall be recorded and submitted with the application for development approval:

- A single lot for the purpose of development of a single-family dwelling pursuant to Section 6.2.1.1 of this Ordinance (option available only within zoning jurisdiction of the City of Sanford)
- Minor subdivisions in which a private access easement is permitted pursuant to Section 6.2.1.2 of this Ordinance (option available only within zoning jurisdiction of the Town of Broadway and Lee County).
- Outparcel lots within nonresidential subdivisions;
- Townhouse or Rowhouse 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 lots;
- Lots fronting on approved private shared driveways/roadway as part of an approved conditional zoning (planned development)

6.6.3.4 Lots may be granted access from public streets upon issuance of a driveway permit by NCDOT or the appropriate municipal jurisdiction.

6.6.3.5 Flag lots shall not be permitted, except when sufficient lot width is provided, in accordance with Table 4.7-1 of this Ordinance.

6.6.4 CUL-DE-SAC LOTS

6.6.4.1 A lot located on a cul-de-sac shall provide:

- A minimum lot frontage of at least 35 feet;
- A minimum lot width of 50 feet at the Building Line; and
- A lot area equal to or greater than the minimum lot area.

6.6.5 PUBLIC UTILITY LOTS EXEMPT

6.6.5.1 Lots to be created for the express purposes of public utilities, using land or an unoccupied building of generally less than 2,500 square feet of site area, are exempt from minimum lot standards of this Ordinance. Exempted utility lots which exceed 2,500 square feet may be permitted subject to review and approval by the Administrator.

6.6.6 LOT DESIGN AND ENVIRONMENTALLY SENSITIVE AREAS

6.6.6.1 Lot boundaries shall be made to coincide with natural and pre-existing topography to the extent practicable to avoid the creation of lots that can be built upon only by altering drainage ways. Lot boundary lines shall conform to the following requirements:

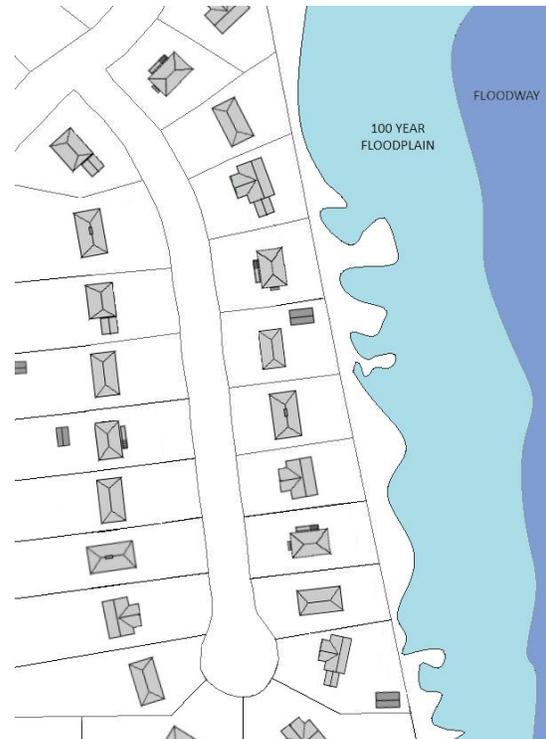
- Lot boundary lines of a major subdivision shall not extend into areas equal to or below the Base Flood Elevation (BFE)

- Lot boundary lines of a major subdivision shall not extend into areas designated as a stream buffer zone required by the U.S. Army Corps of Engineers or the State of North Carolina
- Lot boundary lines of a major subdivision shall not extend into areas designated as wetlands.

FIGURE 6.6-2 PROHIBITED LOT LAYOUT WITHIN ENVIRONMENTALLY SENSITIVE AREAS:



FIGURE 6.6-3: PREFERRED LOT LAYOUT, AVOIDING ENVIRONMENTALLY SENSITIVE AREAS:



6.6.6.2 Single-family lots that abut environmentally sensitive areas (wetlands, floodplains, etc.) may have minimum lot sizes reduced as practically needed, at the discretion of the Zoning Administrator.

6.6.7 LOT BOUNDARIES

Lot boundaries must be contiguous with street right-of-way boundaries and shall not extend to the center of public streets or encroach into street right-of-way. Land to be subdivided which has existing property lines extending into street rights-of-way or into streets shall dedicate a street right-of-way as required by the appropriate zoning jurisdiction's Technical Standards & Specifications Manual for that section of the street located on or adjacent to the property being subdivided.

6.7 STREET DESIGN STANDARDS

6.7.1 STREET DESIGN

The design of all public streets and roads within the municipal zoning jurisdiction shall conform to standards set forth in the municipal zoning jurisdiction's or NCDOT's Technical Standards & Specifications Manual. Where permitted, private streets must be constructed to municipal zoning jurisdictions' design standards and inspected by the Public Works Department. Private streets shall be maintained by the developer or responsible organization.

6.7.1.1 CONTINUATION OF STREETS

Where necessary to provide access or to permit the reasonable future subdivision of adjacent land, stub streets shall be extended to the boundary of the development. A temporary turnaround may be required where the dead end exceeds 500 feet in length. The platting of partial width rights-of-way shall be prohibited except where the remainder of the necessary right-of-way has already been platted, dedicated, or established by other means.

All proposed stub streets shall include a guard rail at or near the property line, with signage posted indicating that a street extension is intended for future development. Such signage shall be maintained by the HOA or responsible organization.

6.7.1.2 ACCESS

6.7.1.2.1 Secondary access shall be required for major residential subdivisions where the total number of lots exceeds 100. Secondary access must be a paved, internal public street that connects to an existing public street to provide adequate traffic circulation and connectivity.

6.7.1.2.2 All proposed public streets should be designed to avoid hazard areas such as floodways.

6.7.1.3 SIGHT DISTANCE AND SITE TRIANGLES

Sight Distance and Site Triangles shall comply with the North Carolina Department of Transportation, Subdivision Roads – Minimum Construction Standards (July 1, 1985) or the most recently officially adopted version, G.2 and Figures 3 and 4 in the unincorporated area of the County, and with the *Technical Standards & Specifications Manual* in the incorporated areas of Lee County.

6.7.1.4 CUL-DE-SAC STREETS

6.7.1.4.1 Cul-de-sacs shall be subject to the same design guidelines as local roads, above, except modified herein.

6.7.1.4.2 The radius for the circular terminus, or turnaround, shall be not less than 45 feet. If the radius exceeds fifty (50) feet, an island may be planted in the center of the turnaround. The island shall have a minimum radius of 10 feet.

6.7.1.4.3 The length of a cul-de-sac street shall be measured from the center of the cul-de-sac terminus to the first point of an intersection. Except as allowed in § 6.7.1.4.4. In no event shall

the cul-de-sac exceed the lengths set forth in Table 6.7-1 below.

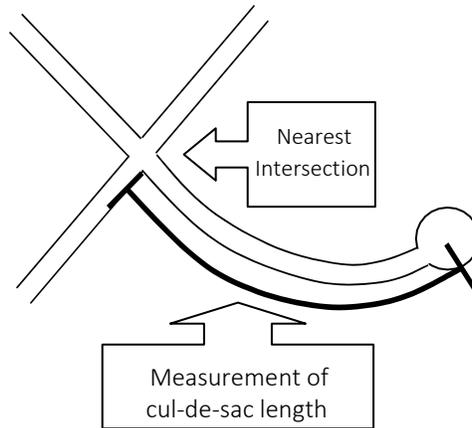
6.7.1.4.4 Cul-de-sacs or other dead-end streets are strongly discouraged and can only be used when it is not feasible to connect to an existing street or facilitate connectivity to a potential adjoining future development.

Table 6.7-1 MAXIMUM LENGTH FOR CUL-DE-SAC STREETS

AVERAGE LOT SIZE*	MAXIMUM LENGTH (IN FEET)
RA and RR	1,000
All Other Zoning Districts	400

* Average lot size shall be determined by calculating the average of all the lot sizes as proposed within a subdivision.

Figure 6.7-1 Example of How a Cul-De-Sac Street is Measured.



6.7.1.4.5 The Zoning Administrator may approve modifications to cul-de-sac requirements on a case-by-case basis, with the justification submitted, in writing, as part of a major subdivision application.

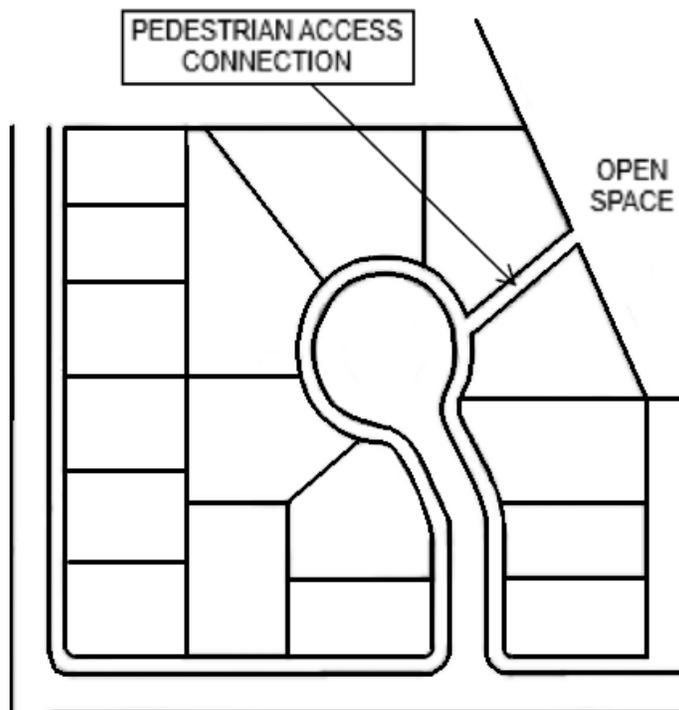
6.7.1.4.6 Cul-de-sacs shall, when practicable, have a minimum twenty (20) foot wide pathway for pedestrian access connecting to the nearest public street, street right-of-way, or common open space. The pathway shall be improved with a permanent walking surface for pedestrian use. This area of the pathway shall be credited towards a development’s active open space requirements. A cross-section illustrating the technical specifications and manner of construction of the improved pathway shall be included in proposed site plans.

6.7.1.5 CURB AND GUTTER

6.7.1.5.1 All new single-family residential subdivisions shall be required to provide curb and gutter along all proposed new internal public streets, except for subdivisions within RA and RR zoning districts, and any subdivision within unincorporated areas of Lee County.

6.7.1.5.2 Specific design standards for the curb and gutter shall be obtained from the respective jurisdiction’s engineering department or other authorized agency’s *Technical Standards & Specifications Manual*.

FIGURE 6.7-2: EXAMPLE OF PEDSTRIAN ACCESSS CONNECTION TO CUL-DE-SAC STREETS:



6.7.2 BLOCK DESIGN

6.7.2.1 The purpose of this section is to encourage appropriately sized street blocks that encourage street connectivity and efficiency of public and safety services.

TABLE 6.7-2: BLOCK LENGTH STANDARDS

ZONING DISTRICT	MINIMUM BLOCK LENGTH	MAXIMUM BLOCK LENGTH
RA and RR	250 linear feet	1,500 linear feet
RN-20	250 linear feet	1,200 linear feet
SN-12, SN-9, UN-6	250 linear feet	900 linear feet

6.7.2.2 Residential major subdivisions within RN-20, SN-12, SN-9, and UN-6 zoning districts shall include an improved (paved) pedestrian walkway perpendicular to the street when a proposed block length exceeds 600 linear feet. This walkway shall provide a pedestrian-accessible link to parallel streets on either side of the block. A pedestrian crosswalk of at least eight (8) feet in width at mid-block alignment with the pedestrian walkway shall also be provided. The space utilized for this improved pedestrian walkway shall be considered active open space and shall count towards

the minimum active open space requirements. The maintenance standards for this walkway shall be the same as those set forth in 6.5.7.

FIGURE 6.7-3: EXAMPLE OF PEDESTRIAN WALKWAY



6.7.3 SIDEWALKS

6.7.3.1 Sidewalks requirements shall be determined by the zoning district of the proposed development, as illustrated in Table 6.7-3.

6.7.3.2 Sidewalks shall be provided along public rights-of-way for existing streets fronted by the parent tract(s) of a proposed major subdivision, except in unincorporated areas of Lee County.

6.7.3.3 Sidewalks shall connect to and functionally serve all proposed active open space, mailbox kiosks, and school bus stops. All sidewalks not located within a public right-of-way shall have a public access easement overlapping the sidewalk to permit public use of sidewalks.

TABLE 6.7-3: SIDEWALKS AND PLANTING STRIP STANDARDS

ZONING DISTRICT	SIDEWALK STANDARD	PLANTING STRIP STANDARD
RA and RR	--	--
RN-20	5-foot sidewalk on one (1) side of all proposed new public streets	Minimum 7-foot planting strip with sidewalk
SN-12, SN-9, UN-6	5-foot sidewalk on both sides of all new public streets	Minimum 7-foot planting strip with sidewalk

6.7.3.4 Specific design standards for sidewalks shall be obtained from the respective jurisdiction’s engineering department or other authorized agency’s *Technical Standards & Specifications Manual*.

6.7.4 STREET TREES (CITY OF SANFORD ONLY)

Street trees are required in the planting strip within the public right-of-way along all new streets associated with single-family residential major subdivisions within the City of Sanford's corporate limits, including ETJ, except for those subdivisions in RA and RR zoning districts.

6.7.4.1 Specific standards for street trees associated with proposed subdivisions are as follows:

- One (1) large tree shall be required for every eighty (80) linear feet of new public street.
- Street trees shall be planted a minimum of fifteen (15) feet apart and a maximum of ninety (90) feet apart.
- Street trees may be evenly spaced *or* spaced to avoid design elements including, but not limited to easements, driveways, utilities, and intersection sight distance triangles.
- Street trees shall be placed at least 3 feet away from improved surfaces, such as sidewalks, driveways, curbs, or asphalt, to avoid or minimize damage caused by spreading roots.
- A variety of street tree species are encouraged, but a single species of tree should be used for each block.
- Street trees shall be in good condition, well-branched, with full foliage and healthy, developed root systems when planted.

For street trees planted along streets developed with **single-family detached dwellings**, the following species are permitted:

American Elm (*Ulmus Americana*)
 American Hornbeam (*Carpinus caroliniana*)
 American Sweetgum (fruitless) (*Liquidambar Styraciflua*)
 Amur Corktree (*Phellodendron amurense*)
 Bald Cypress (*Taxodium distichum*)
 Black Gum (*Nyssa sylvatica*)
 Bosque or Lacebark Elm (*Ulmus Parvifolia*)
 Dawn Redwood (*Metasequoia glyptostroboides*)
 Goldenraintree (*Koelreuteria paniculate*)
 Green Ash (*Fraxinus pennsylvanica*)
 Horse Chestnut (*aesculus hippocastanum*)
 Japanese Pagodatree (*Sophora japonica*)
 Japanese Zelkova (*Zelkova Serrata*)
 Kentucky Coffeetree (*gymnocladus dioicus*)
 Little-leaf linden (*Tilia cordata*)
 London Planetree (*Platanus x acerifolia*)
 Maidenhair Tree (*Ginko Biloba*)
 Red Horse Chestnut *Aesculus x carnea*)
 Red Maple (*Acer rubrum*)
 Sargent Cherry (*Prunus sargentii*)
 Silver Linden (*Tilia tomentosa*)
 Sugarberry (*Celtis laevigata*)

Thornless Honeylocust (*Gleditsia triacanthos*)
 Tupelo (*Nyssa Sylvatica*)
 Turkish Filbert (*Corylus colurna*)

For street trees planted along streets developed with **single-family attached dwellings (townhouses)**, the following species are permitted:

Hedge Maple (*Acer campestre*)
 Serviceberry Tree (*Amelanchier arborea*)
 Eastern Redbud (*Cercis canadensis*)
 Fringe Tree (*Chionanthus virginicus*)
 Kousa Dogwood (*Cornus kousa*)
 Green Hawthorn (*Crataegus viridis*)
 Silverbell (*Halesia carolina*)
 Flowering Crabapple (*Malus spp.*)
 Chinese Pistache (*Pistacia chinensis*)
 Carolina Cherry Laurel (*Prunus caroliniana*)
 Chokecherry (*Prunus virginiana*)
 Japanese Tree Lilac (*Syringa reticulata*)

6.7.5 SCHOOL BUS STOPS & MAIL KIOSKS

6.7.5.1 A functional school bus stop area should be provided within all residential major subdivisions. Locations may be incorporated within Open Space areas. Final approval of bus stop locations is subject to review by the Lee County Schools Transportation Superintendent.

6.7.5.2 Functional mail kiosk areas should be provided within all residential major subdivisions. Mail kiosk areas should be dispersed throughout the residential subdivision to encourage practical delivery and residential collection of mail. Final approval of mail kiosk locations is subject to review by the U.S. Postal Service or local USPS Postmaster.

6.7.5.3 Open Space areas utilized for school bus stops or mail kiosks may be counted towards the open space minimums. Areas proposed to be utilized as school bus stops and mail kiosks may be exempt from the minimum Open Space area requirement of 500 square feet.

6.7.6 BUFFER YARD REQUIRED ALONG SPECIFIC THOROUGHFARES

6.7.6.1 A Class "D" buffer yard per § 7.5 of this Ordinance shall be required along the perimeter of a residential subdivision where it abuts the following thoroughfares:

- U.S. 1
- U.S. 15-501
- U.S. 421
- N.C. 42
- N.C. 78

- N.C. 87
- All other U.S. or N.C. numbered highways

6.7.6.2 Public streets and/or pedestrian accessways shall be allowed to cross the buffer yard. 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.