

Section 9.05 UDO Permit and Development Petition Requirements and Procedures.

B. **Platting, Project Construction Drawing Approval and Recombination Procedures.** [Amended Ordinance #14-07]*

Note: The "platting" procedure, which is the primary procedure regulated in this Section 9.05, B., is sometimes referred to in this UDO as: *subdivision* approval; *master plan* approval; *preliminary plan* approval; or, plat approval. All such references shall be interpreted as referring to the procedures and regulations contained in this Section 9.05, B.

1. Administration.

The general process for the approval of a plat or recombination is set forth below in Table 9.05 – A: Platting Process Overview. The Town of Holly Springs shall maintain a Town of Holly Springs Development Procedures Manual which shall designate applications, checklists and any other information required to be shown on all plans required by and consistent with the provisions of this UDO.

After the effective date of this UDO, each *preliminary plan* or recombination of land within the Town of Holly Springs and its extra territorial jurisdiction shall be approved in accordance with the provisions of this UDO and the Town of Holly Springs Development Procedures Manual prior to recording a *final plat* of a *subdivision* or conveying any *lot* within a *subdivision*.

2. Concept Plan Review.

A *subdivider* of land is encouraged to prepare a *concept plan* and consult with the Department of Planning and Zoning, the Department of Engineering and the Department of Parks and Recreation on an informal basis to learn of any comments, concerns and questions regarding the proposed plat or recombination, prior to filing any *master plan*, *preliminary plan* or *final plat* applications.

The *concept plan* shall be prepared with as much information and detail as is available to the *subdivider* at the time of presenting the *concept plan*. The *subdivider* is hereby advised that the greater the level of information and detail shown on the *concept plan*, the greater the value of the *concept plan* review and comments.

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3. *Master Plans.*
 - a. Purpose – The *master plan* approval process is intended to provide for the development of larger, multi-phase or multi-section residential *subdivisions* and *non-residential incremental subdivisions* in which the overall scheme of development is known, but the final *lot* and public place design, *street* and *right-of-way* design, and utility reservation and design plans for the entire *subdivision* cannot feasibly be prepared in connection with the first phase or section of proposed development.
 - b. *Master Plan* Optional – The filing of a *master plan* is encouraged for any multi-phase or multi-section *major residential subdivision* or *non-residential subdivision*, but is not required.
 - c. *Master Plan* Required – The filing of a *master plan* is required for the development of a *non-residential incremental subdivision*.
 - d. Filing of *Master Plans* – All *master plan* filings shall conform to the requirements specified in the Town of Holly Springs Development Procedures Manual.
 - e. Review – The review of a *master plan* shall follow the same procedures as specified in Section 9.05, B., 4., b. – Review, below, for a *preliminary plan*.
 - f. Decision – A decision on a *master plan* shall follow the same procedures as specified in Section 9.05, B., 4., c. – Decision, below, for a *preliminary plan*.
 - g. Conditions of *Master Plan* Approval – The approval of a *master plan* shall be conditioned upon the final approval of the final *lot* and public place design, *street* and *right-of-way* design, and utility design and reservation plans by the Department of Planning and Zoning, the Department of Engineering and the Department of Parks and Recreation prior to approval of any *construction drawings* or *final plats*. The construction drawing and *final plats* shall demonstrate substantial compliance with the approved *master plan*. However, the Department of Planning and Zoning, the Department of Engineering and the Department of Parks and Recreation may require minor modifications to the submitted *construction drawings* or proposed *final plat* where necessary to implement the intent and purpose of this UDO, the Town of Holly Springs' Engineering Design and Construction Standards, and all other applicable statutes, ordinances or Town policies.

- h. Duration of *Master Plan* Approval – A *master plan* approval shall be subject to the same duration, expiration and extension provisions set forth in Section 9.05, B., 4., d. – Duration of *Preliminary Plan Approval* of this UDO for a *preliminary plan*.

4. *Preliminary Plans.*

- a. Filing.

Prior to obtaining *construction drawing* approval or *final plat* approval, a *subdivider* shall first file a petition for a *preliminary plan* approval in compliance with the Town of Holly Springs Development Procedures Manual, unless proceeding under an approved *master plan*.

- b. Review.

The Department of Planning and Zoning, the Department of Engineering and the Department of Parks and Recreation shall review the submitted *preliminary plan* for compliance with all applicable statutes, ordinances, Town policies, and this UDO and prepare a recommendation for either approval or disapproval.

- c. Decision.

A submitted *preliminary plan* shall be either approved, approved with conditions, or disapproved in accordance with the provisions of Section 9.09 – Decision Matrix. In the event the *preliminary plan* receives approval or approval with conditions, the *subdivider* may proceed with the preparation of *construction drawings* and the *final plat* and arrangements for the installation of required *improvements* in compliance with the terms and conditions of the *preliminary plan* approval or conditional approval and the terms and conditions of this UDO. A written notice of the approval, approval with conditions, or disapproval of a *preliminary plan* shall be provided to the *subdivider* specifying the reasons for any conditions or the reasons for disapproval. If the *preliminary plan* is disapproved, the *subdivider* may file a new petition for *preliminary plan* approval with modifications designed to address and remove the reasons cited for the disapproval.

- d. Duration of *Preliminary Plan* Approval.

In general, a *preliminary plan* approval is valid for a period of eighteen (18) months after the date of approval. Such eighteen (18) month period shall be administered as follows:

- (1) Single Phase or Section *Subdivisions* – *Construction drawings* for a single phase or section *subdivision* shall be submitted not more

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than eighteen (18) months after the date on which the *preliminary plan* was approved.

- (1) Multiple Phase or Section *Subdivision* – *Construction drawings* for the first phase or section of a *subdivision* shall be submitted not more than eighteen (18) months after the date on which the *preliminary plan* was approved. The *construction drawing* deadline for submitting any subsequent phase or section of such *subdivision* shall be eighteen (18) months from the date of recording of the most recent *final plat* for any preceding phase or section of such *subdivision*.
- (2) Expiration – If a *construction drawing* for a single phase or section *subdivision* or a phase or section of a multiple phase or section *subdivision* is not submitted within such eighteen (18) month period, the *preliminary plan* approval shall be null and void.
- (3) Extensions – A written extension of the eighteen (18) month time limit may be granted by the *Town Council*, if requested, in writing by the *subdivider* on or before the eighteen (18) month anniversary of the *preliminary plan* approval. Extensions of time, in six (6) month increments not to exceed a total of two (2) years, for submitting *construction drawings* may be granted by the *Town Council* for good cause shown. Notwithstanding the provisions of this paragraph to the contrary, the *Technical Review Committee* shall have the authority to grant a one-time, three (3) month extension for the submission of *construction drawings* for good cause shown and shall report such extension and the reasons for such extension to the *Town Council* at the next regularly scheduled meeting of the *Town Council*. [Amended Ordinance #04-06]*
- (4) Quality of Plans – In order to qualify as a submission, *construction drawings* must substantially comply with the provisions of this UDO, the Town of Holly Springs Engineering Design and Construction Standards and the requirements of the Town of Holly Springs Development Procedures Manual. Plans which purport to be *construction drawings* but which do not substantially comply with the provisions of this UDO, the Town of Holly Springs Engineering Design and Construction Standards and the requirements of the Town of Holly Springs Development Procedures Manual shall not qualify as having been submitted in compliance with the provisions of this sub-Section.

Table 9.05 – A: Platting Process Overview

Concept Plan ➔	Master Plan or Preliminary Plan ➔		Construction Drawings ➔	Final Plat
<u>Not Required for:</u> <i>Minor Residential Subdivisions</i> <u>Required for:</u> <i>Major Subdivisions</i> <i>Incremental Non-Residential Subdivisions</i>	<u>Not Required for:</u> <i>Minor Residential Subdivisions</i> <u>Optional for:</u> <i>Major Subdivisions</i> <u>Required for:</u> <i>Incremental Non-Residential Subdivisions</i>	<u>Not Required for:</u> <i>Minor Residential Subdivisions</i> <i>Major Subdivisions with Master Plan Approval</i> <i>Incremental Non-Residential Subdivisions with Master Plan Approval</i> <u>Required for:</u> <i>Major Subdivisions without Master Plan Approval</i>	<u>Required for:</u> <i>Minor Residential Subdivisions</i> <i>Major Subdivisions</i> <i>Incremental Non-Residential Subdivisions</i>	<u>Required for:</u> <i>Minor Residential Subdivisions</i> <i>Major Subdivisions</i> <i>Incremental Non-Residential Subdivisions</i>
<u>Review Departments:</u> Planning & Zoning Engineering Parks & Recreation	<u>Review Departments:</u> Planning & Zoning Engineering Parks & Recreation	<u>Review Departments:</u> Planning & Zoning Engineering Parks & Recreation	<u>Review Departments:</u> Engineering	<u>Review Departments:</u> Planning & Zoning Engineering Parks & Recreation
<u>Notes:</u> While not required for <i>minor residential subdivisions</i> , all subdivisions are encouraged to participate in <i>Concept Plan</i> review.	<u>Notes:</u> <i>Major subdivisions</i> which include multiple sections or phases are encouraged to follow a <i>Master Plan</i> process.	<u>Notes:</u> If <i>Master Plan</i> is approved for entire <i>subdivision</i> , individual sections or phases are exempt from <i>Preliminary Plan</i> review.	<u>Notes:</u> Any <i>Master Plan</i> approval may be subject to minor modification upon review by Engineering of all details in connection with <i>Construction Drawing</i> approval.	<u>Notes:</u> No building permit shall be released until the approved <i>final plat</i> mylar has been recorded with the Wake County Register of Deeds and returned to the Dept. of Planning and Zoning.

5. *Construction Drawings.*

Construction drawings are required to be reviewed and approved by the Town of Holly Springs and all other appropriate local, state, federal and other authorities exercising jurisdiction over such matters prior to the commencement of any earth work, site preparation or construction activity at any *project* or *subdivision*.

- a. *Subdivisions* – Upon the approval of a *master plan* or *preliminary plan* by the Town of Holly Springs and the approval of *construction drawings* for all required infrastructure and improvements by the Town of Holly Springs and other appropriate local, state, federal and other authorities exercising jurisdiction over such matters, a *subdivider* may proceed with the preparation of the *final plat* and the installation of infrastructure and utility *improvements*. Prior to the submission of a *final plat* for approval, the *subdivider* shall either complete construction of all required infrastructure and utility *improvements* or, in certain limited situations as approved by the *Director of Engineering*, guarantee their installation as set forth below.

In lieu of requiring the completion, installation and dedication of all public infrastructure, utility *improvements* or other site improvements (including but not limited to landscaping) prior to *final plat* approval for *subdivisions* which involve the dedication or extension of any public infrastructure, utility *improvements* or other site improvement, the *subdivider* may provide assurance in the form of a *performance bond*, irrevocable letter of credit or cash deposit in accordance with Town requirements as a financial guarantee for the completion, installation, dedication and maintenance of those public infrastructure and public utility *improvements*, infrastructure and utility *improvements*, or other site improvements, as authorized in compliance with the following regulations.

- b. *Projects* – Upon issuance of a *UDO permit* and approval of *construction drawings* by the Town of Holly Springs and all other appropriate local, state, federal and other authorities exercising jurisdiction over such matters, a developer may proceed with the commencement of construction on any *project*.

When, in the determination of the *Director* or the *Director of Engineering*, exceptional circumstances exist and it is deemed advisable in order to ensure the completion of required infrastructure and to protect the *use* and value of area properties, a developer may be required to provide assurance in the form of a *performance bond*, irrevocable letter of credit or cash deposit in accordance with Town requirements as a financial guarantee for the completion, installation, dedication or maintenance of all public infrastructure, public utility *improvements*, infrastructure and utility

improvements, or other site improvements (including but not limited to landscaping) in compliance with the following regulations.

- c. Performance Bond - A performance bond shall:
- (1) Be issued for the benefit of the *Town Council* of the Town of Holly Springs, North Carolina. The *Director of Engineering* shall be listed as the authorized agent for the *Town Council* for all infrastructure and *public right-of-way* installations and improvements (including *street trees* in the *right-of-way*). The *Director* of the Department of Planning and Zoning shall be listed as the authorized agent for the *Town Council* for on-site, non-utility related private improvements (e.g., landscaping). [Amended Ordinance #04-06]
 - (2) Be in an amount equal to one-hundred and twenty-five (125) percent of the cost, as established pursuant to an estimate submitted to and approved by the *Director of Engineering* or the *Director* of the Department of Planning and Zoning, as appropriate, for the completion of all remaining *improvements* and installations required by this UDO; [Amended Ordinance #04-04]
 - (3) Provide surety satisfactory to the *Town Council*; [Amended Ordinance #04-06]
 - (4) Be in effect until compliance with the terms and provisions of the *performance bond* and the execution of a written Release of Performance Bond by the *Director of Engineering* or the *Director* of the Department of Planning and Zoning, as appropriate;
 - (5) Specify that all *improvements* and installations shall be completed in accordance with the requirements and specifications of this UDO, the Town of Holly Springs' Engineering Design and Construction Standards, and the approved *construction drawings*:
 - (a) for single family or two family *subdivisions*, prior to the *plat* being recorded all items must be completed from punch list that was generated by the Town and ready to be placed under one year warranty; Or, [Amended Ordinance #18-03]*
 - (b) for *multifamily*, commercial / mixed use or industrial *projects* or *subdivisions*, prior to the issuance of a *Certificate of Occupancy*, provided, however, the *Director of Engineering* may grant an extension for good cause shown; and, [Amended Ordinance #04-06, 11-09]

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- (6) Said *performance bond* shall be filed on bond forms approved for use by the *Town Council*. [Amended Ordinance #04-06]
- d. Irrevocable Letter of Credit – An Irrevocable Letter of Credit shall:
- (1) Be issued for the benefit of the *Town Council* of the Town of Holly Springs, North Carolina. The *Director of Engineering* shall be listed as the authorized agent for the *Town Council* for all infrastructure and *public right-of-way* installations and improvements (including *street trees* in the *right-of-way*). The *Director* of the Department of Planning and Zoning shall be listed as the authorized agent for the *Town Council* for on-site, non-utility related private improvements (e.g., landscaping). [Amended Ordinance #04-06]
 - (2) Be in an amount equal to one-hundred and twenty-five (125) percent of the cost, as established pursuant to an estimate submitted to and approved by the *Director of Engineering* or the *Director* of the Department of Planning and Zoning, as appropriate, for the completion of all remaining *improvements* and installations required by this UDO; [Amended Ordinance #11-09]
 - (3) Provide surety satisfactory to the *Town Council*; [Amended Ordinance #04-06]
 - (4) Be in effect until:
 - (a) the execution of a written Release of Irrevocable Letter of Credit by the *Director of Engineering* or the *Director* of the Department of Planning and Zoning, as appropriate;
 - (b) compliance with the terms and provisions of this UDO;
 - (c) all *improvements* and installations have been completed in accordance with the requirements and specifications of this UDO:
 - (i) for single family or two family *subdivisions*, prior to the *plat* being recorded all items must be completed from punch list that was generated by the Town and ready to be placed under one year warranty; Or [Amended Ordinance #18-03]*.
 - (ii) for *multifamily*, commercial / mixed use or industrial *projects* or *subdivisions*, prior to the issuance of a *Certificate of Occupancy*, provided, however, the *Director of Engineering* may grant an

extension for good cause shown. [Amended Ordinance #11-09]

- (d) the provision by the developer or *subdivider* of a warranty as required by this *UDO* prior to acceptance of *improvements* and installations for public maintenance by the Town of Holly Springs; and, [Supplement #6 corrected typographical error]
- (5) Said Irrevocable Letter of Credit shall be filed on letter of credit forms approved for use by the *Town Council*. [Amended Ordinance #04-06]
- (6) The letter of credit shall be issued by a financial institution that shall allow for presentment upon default at a location within 25 miles of the corporate limits of Holly Springs. [Added Ordinance #06-07]

e. Cash Deposit.

A cash deposit or other instrument readily convertible to cash at face value shall be held by the Town of Holly Springs in a separate account for such purposes. The cash deposit or other instrument readily convertible to cash at face value shall:

- (1) Be in effect until:
 - (a) the execution of a written Release of Cash Deposit by the *Director of Engineering* or the *Director* of the Department of Planning and Zoning, as appropriate;
 - (b) compliance with the terms and provisions of this UDO;
 - (c) all *improvements* and installations (including *street trees* in the *right-of-way*) have been completed in accordance with the requirements and specifications of this UDO:
 - (i) for single family or two family *subdivisions*, prior to the *plat* being recorded all items must be completed from punch list that was generated by the Town and ready to be placed under one year warranty; OR [Amended Ordinance #18-03]*
 - (ii) for *multifamily*, commercial / mixed use or industrial *projects* or *subdivisions*, prior to the issuance of a *Certificate of Occupancy*, provided, however, the *Director of Engineering* may grant an extension for good cause shown. [Amended Ordinance #11-09]

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- (d) the provision by the *subdivider* of a warranty as required by this UDO prior to acceptance of *improvements* and installations for public maintenance by the Town of Holly Springs.
- (2) Said cash deposit shall be deposited into an account established by the Town of Holly Springs for the purpose of holding cash deposits as surety for such *improvements*. The cash deposit shall not bear interest payable to the developer or subdivider; and,
- (3) All cash deposits shall be held by the *Town Council* of the Town of Holly Springs to secure completion of all improvements and installations required by this UDO. [Amended Ordinance #04-06]

f. Warranty.

Upon completion of all required *improvements* and installations, but prior to the acceptance of such *improvements* and installations for public maintenance, the developer or *subdivider* shall provide a one (1) year warranty which shall:

- (1) Be issued for the benefit of the *Town Council* of the Town of Holly Springs, North Carolina. The *Director of Engineering* shall be listed as the authorized agent for the *Town Council* for all infrastructure and *public right-of-way* installations and improvements (including *street trees* in the *right-of-way*). The *Director* of the Department of Planning and Zoning shall be listed as the authorized agent for the *Town Council* for on-site, non-utility related private improvements (e.g., landscaping). [Amended Ordinance #04-06]
- (2) Provide surety satisfactory to the *Town Council*; [Added Ordinance #11-09]
- (3) Be in an amount equal to ten (10) percent of the total cost of public infrastructure for the development; [Amended Ordinance #04-09, 11-09]

[Amended Ordinance #11-09]

- (4) Warrant the workmanship and materials used in the construction, installation and completion of said *improvements* and installations to be of good quality and have been constructed and completed in a workmanlike manner in accordance with the standards, specifications and requirements of this UDO, the Town of Holly Springs' Engineering Design and Construction Standards, and the satisfactory *construction drawings* and specifications therefore approved by the *Director of Engineering*; and,

- (5) Provide that for the period of time specified below after formal acceptance, the developer or *subdivider* shall, at the developer's or *subdivider's* expense, make all repairs to said *improvements* and installations, or the foundations thereof, which may become necessary by reason of improper workmanship or materials, including any damage resulting from work done by utility companies or other sub-contractors performing services on behalf of the developer or *subdivider*:
- (a) For non-residential *projects*, one year. [Added Ordinance #11-09]
- (b) For residential *projects*, one year or the time in which ninety (90) percent of the residential *dwelling units* have been issued a *building permit*, whichever is later. If at such time in the opinion of the *Director of Engineering*, the improvements cannot be installed appropriately because of temperature, weather conditions, etc., the *Director of Engineering* may delay completion and acceptance. [Added Ordinance #11-09] [Amended Ordinance #18-03]*

g. Default.

Upon default, meaning the failure on the part of the developer or *subdivider* to: complete the required *improvements* in a timely manner as spelled out in this UDO and any performance guarantee; or, repair the required *improvements* during the warranty period, the surety company shall, upon receipt of a written request by the *Director of Engineering* or the *Director* of the Department of Planning and Zoning, as appropriate, disperse to the Town of Holly Springs all funds, up to a maximum amount being the lesser of the value of the guarantee or the estimate approved by the *Director of Engineering* or the *Director* of the Department of Planning and Zoning, as appropriate, necessary to complete the *improvements* in accordance with the standards, specifications and requirements of this UDO or the Town of Holly Springs' Engineering Design and Construction Standards. Upon payment of such funds to the Town of Holly Springs, the *Town Council* shall authorize the expenditure of such funds to complete the installation or repair of such *improvements* which were so guaranteed. [Amended Ordinance #04-06]

h. Release of Guarantee.

- (1) Release of Performance Guarantee:

[Removed Ordinance #18-03]*

Full Release – The *Director of Engineering* or the *Director* of the Department of Planning and Zoning, as appropriate,

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shall release any performance guarantee upon: execution of a written release of such performance guarantee by the *Director of Engineering* or the *Director* of the Department of Planning and Zoning, as appropriate; and, receipt of a warranty.

- (2) Release of Warranty:
 - (a) Prior to the release of a warranty for the *improvements* required by this UDO, the Town of Holly Springs, and any local, state, federal or other approving authority having jurisdiction, shall inspect and approve all completed work.
 - (b) The *Director of Engineering* or the *Director* of the Department of Planning and Zoning, as appropriate, shall, upon acceptance of the warranted *improvements*, and the expiration of the later of: the warranty period specified in this UDO; or, the warranty specified in the warranty guarantee, release the warranty guarantee.

6. *Final Plats.*

a. Filing Requirements.

- (1) *Major Subdivisions* – Upon receiving approval of a *master plan* or *preliminary plan* for a *major subdivision* and providing for the construction of required *subdivision improvements* or guarantees in compliance with this Section, a *subdivider* may apply for *final plat* approval.
- (2) *Minor Residential Subdivisions* – See Section 9.05, B., 7. – Special Provisions for Minor Residential Subdivisions.
- (3) A *subdivider* seeking *final plat* approval shall submit the *final plat* for approval in accordance with the requirements of the Town of Holly Springs Development Procedures Manual.
- (4) The *final plat* shall conform to the provisions for *subdivisions* and mapping requirements set forth in GS 47-30 and the rules of the North Carolina State Board of Registration for Professional Engineers and Land Surveyors.

Material and drawing medium for proposed *preliminary plans* or *final plats* shall be in accordance with the rules of the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, where applicable, and the requirements of the

Wake County Register of Deeds.

- (5) Proposed *final plats* shall be prepared by a registered land surveyor currently licensed and registered in the state of North Carolina by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors.
- (6) No *final plat* shall be accepted for review unless such *final plat* complies with the *improvement* and guaranty requirements of Section 9.05, B., 5., c. through Section 9.05, B., 5., h. of this UDO. The *final plat* shall constitute only that phase or section of the *master plan* or *preliminary plan* which the *subdivider* proposes to record and develop at the particular time in compliance with the regulations of this UDO.
- (7) No *final plat*, excluding *minor subdivisions*, shall be approved until a Certificate of Compliance for Sedimentation Erosion Control has been issued by the Town of Holly Springs. [Amended Ordinance #10-11]

b. Review.

The *Director* shall review the *final plat* as submitted for compliance with all applicable statutes and this UDO and for compliance with the terms and conditions of the *master plan* or *preliminary plan* approval and either approve or disapprove the *final plat*. In the event of an approval, the Department of Planning and Zoning shall forward the decision of the *Director* and the *final plat* to the *Review Officer* along with a copy of the *master plan* or *preliminary plan* approval and any additional comments deemed appropriate by the Department of Planning and Zoning. The *Review Officer* shall not certify any *final plat* without the prior approval of the *Director*. If the *Director* approves the *final plat*, the *Review Officer* shall certify the *final plat* for recording.

c. Notice of Decision.

The *Director* shall either approve or disapprove the *final plat* as submitted. The *Director* shall provide the *subdivider* with a written notice of its approval or disapproval specifying the reasons for disapproval.

d. Duration of *Final Plat* Approval.

Upon approval of a *final plat* by the *Director* and the *Review Officer*, the *subdivider* may record the *final plat*. An approved *final plat* must be recorded within sixty (60) days of said certification by the *Review Officer*, or said approval shall be null and void.

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Once recorded, a *final plat* shall remain valid until such recorded plat is re-platted or subject to a recombination plat. [Amended Ordinance #14-07]

- e. Amendments to *Final Plats*. [Amended Ordinance #08-18]
- (1) Substantial Amendment – A substantial amendment to a *final plat* shall include any amendment which will: [Amended Ordinance #08-18]
 - (a) substantially alter any *street layout, lot line, or utility easements* shown on the *master plan or preliminary plan*;
 - (b) increase the total number of *lots/units* within the overall original approved *master plan or preliminary plan* by more than ten (10) percent, or ten (10) *lots/units*, whichever is less; [Amended Ordinance #12-05]
 - (c) reduce the *open space* within the overall *project or subdivision* by more than ten (10) percent;
 - (d) increase the *master plan or preliminary plan* acreage by more than ten (10) percent or five (5) acres whichever is less (except for PUDs);
 - (e) reduce a *perimeter yard*; or increase the total number of *freestanding signs*, increase the total *sign surface area* for any type of *sign (building sign or freestanding sign)* or the height of a *freestanding sign* that requires a *waiver of sign regulation* in accordance with the provisions of Section 7.03, H. Waiver of Sign Regulations. [Amended Ordinance #13-07]

A *subdivider* seeking a substantial amendment to a *final plat* which has received *final plat* approval or has received *final plat* approval and been recorded as provided herein, shall seek approval of such alteration or amendment by utilizing the procedures set forth in Section 9.05, B., 3. – Master Plan or Section 9.05, B., 4. – Preliminary Plan, as applicable, for the initial *master plan or preliminary plan* approval. [Corrected typographical error: Supplement #14], [Amended Ordinance #08-18]

- (2) Minor Amendments – If, in the opinion of the *Director*, the proposed alteration or amendment does not substantially deviate from or alter the approved *master plan or preliminary plan*, the *Director* may approve or disapprove the alteration or amendment to a *final plat*.
- (3) Certification of Amended *Final Plats* – The *Review Officer* shall not certify any amended *final plat* without the prior approval of the

Director. If the *Director* approves, the *Review Officer* shall certify the amended *final plat* for recording.

f. Recording of *Final Plat*.

No owner or *subdivider* shall file with the Wake County Register of Deeds any *final plat* of a *subdivision* of land located within the Town of Holly Springs or its extra territorial jurisdiction until such *final plat* has been approved in accordance with the provisions of this UDO and until certified on the face of the *final plat* by the *Review Officer* for the Town of Holly Springs and its extra territorial jurisdiction. Prior to affixing such certification, the *Review Officer* shall have first obtained confirmation from the *Director* that the *final plat* is acceptable and in compliance with the terms of the *master plan* or *preliminary plan* approval, as well as the terms and conditions of this UDO. The Clerk of the Superior Court shall not order or direct the recording of a *final plat* in conflict with the provisions of this UDO.

7. Special Provisions for *Minor Subdivisions*.

A *subdivider* seeking a *subdivision* of a parcel of real estate that is not located within the adopted Village District Area Plan boundary as specified in the *Comprehensive Plan* involving: no new *public streets* or *private streets* except *right-of-way* dedication along *thoroughfares* as shown on the *Comprehensive Transportation Plan*; no new utility extensions except those which can be accessed through existing *rights-of-ways* or easements; and, does not divide the entire tract into more than four (4) *lots*, may choose to utilize the procedures set forth in this sub-Section for *minor subdivisions*. However, subdividers shall dedicate public utility easements for future use on all parcels, with the understanding that after proper design in the future said easements may need to be relocated. [Amended Ordinance #13-09; 15-10]

a. *Concept Plan* Review.

A *subdivider* seeking a *minor subdivision* is encouraged to consult with the Department of Planning and Zoning and utilize the procedures for *concept plan* review as set forth in Section 9.05, B., 2. – *Concept Plan Review*, prior to filing a *final plat*.

b. *Preliminary Plan* Not Required.

The filing of a *master plan* or *preliminary plan* shall not be required for the approval of a *final plat* for a *minor subdivision*.

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c. Final Plat.

A *subdivider* seeking *final plat* approval shall submit the *final plat* for approval in accordance with the requirements of the Town of Holly Springs Development Procedures Manual.

d. Limitations.

Once a *subdivider* has obtained *final plat* approval of a *minor subdivision* from a parcel, that *subdivider* may not seek *final plat* approval of any additional *subdivision* or other *development plan* from the same parcel for a period of three (3) years from the date of approval of the original *final plat* of the *minor subdivision* unless *subdivider* constructs all road improvements required for a *major subdivision* on the entire original tract.

[Amended Ordinance #13-09]

8. Special Provisions for Non-Residential Incremental Subdivisions

The *final plat* approval process for *non-residential incremental subdivisions* is intended to provide for the phased approval of *non-residential lots* of a size and configuration required to serve the needs of development while safeguarding the needs and interests of the public for proper infrastructure design and installation. Any *non-residential incremental subdivision* electing to utilize the incremental *final plat* approval process set forth herein shall be required to follow the full *master plan* and *final plat* approval process outlined above as well as the special provisions of this sub-Section.

a. Review Procedures for Non-Residential *Master Plans* Proposing *Incremental Final Plat* Approval.

The *subdivider* shall submit a *sketch plan* for the proposed *non-residential subdivision* for review by the *Staff* at a *concept plan* review prior to filing a petition for *master plan* approval.

Staff shall review the *sketch plan* and shall notify the *subdivider* of any comments related to the design or contents of the *sketch plan*.

Notwithstanding anything contained in this UDO to the contrary, neither the *Staff's* review of the *sketch plan* submitted at a *concept plan* review nor *Staff's* comments to the petitioner relating thereto shall be considered a denial, approval or decision concerning the proposed *master plan*.

Petitioner may modify the *sketch plan* and file a petition for *master plan* approval after the *concept plan* review with *Staff*.

b. Incremental Approval Process.

Any *subdivider* who proposes to utilize the incremental approval process shall indicate the intention to utilize the incremental approval process at the *concept plan* review.

Any *subdivision* for non-residential land *uses* may be divided into two (2) or more increments or phases for the purpose of *final plat* approval. In connection with a *master plan* approval intending to utilize the incremental approval, any approval of a *master plan* shall be conditioned upon the following requirements:

- (1) The *master plan* shall designate:
 - (a) the area in which *incremental lots* shall be established;
 - (b) the maximum number of *incremental lots* which may exist in such area; and,
 - (c) the minimum and maximum size of such *incremental lots*.
- (2) All *lots* created by an incremental *final plat* shall have either:
 - (a) direct *access* to and from a *public street*; or
 - (b) gain *access* to and from a *public street* across a perpetual recorded *access* easement through portions of the real estate included in the *master plan*.
- (3) All *lots* created by an incremental *final plat* shall either contain within the limits of the incremental *final plat* or have legal access to adequate infrastructure to accommodate the fully developed needs of the *incremental plat* (i.e., storm water management, sanitary sewer, water, electric, gas, telephone, etc.).

Other reasonable conditions may be imposed on the *master plan* approval of a *non-residential incremental subdivision* deemed necessary to assure the orderly development of the *non-residential incremental subdivision*. Such reasonable conditions may include the completion of, or posting a bond or other surety in lieu thereof for, *improvements* necessary to support each incremental *final plat* but which *improvements* may not be located within the bounds of the proposed *incremental final plat*.

c. *Improvements in Incremental Final Plats.*

Each *incremental final plat* shall be considered a separate *final plat* and the recording of easements, dedication of *rights-of-way*, infrastructure

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improvements or other required *improvements* proposed in the remaining sections or phases of the *master plan* may be deferred by the *subdivider* and completed in connection with the appropriate future *incremental final plat*, provided, however, the recording of easements, dedication of *rights-of-way*, construction of infrastructure *improvements* or other required *improvements* proposed in the *final plat* which are determined to be required in order to protect the public health, safety and welfare may be required prior to approval of the proposed *incremental final plat*.

- d. Filing Requirements for Non-Residential *Master Plans* Proposing to Utilize an *Incremental Final Plat* Approval Process.

Any *subdivider* who proposes to utilize the *incremental final plat* approval process shall indicate the intention to utilize the *incremental final plat* approval process at the pre-filing conference with *Staff* and on the application for *master plan* approval.

- e. *Incremental Final Plat* Approval.

Prior to certifying an *incremental final plat* for recording, the *Review Officer* shall have first:

- (1) obtained a copy of the approved *master plan*;
- (2) received the approval of the *incremental final plat* from the *Director*; and,
- (3) confirmed that any and all conditions imposed on the *master plan* have been fully complied with by the *subdivider*.

9. Recombination of *Lots*.

The combination or recombination of entire *lots of record* or portions of previously recorded *lots of record* may be approved by the *Director* subject to the regulations of this sub-Section. No recombination of *lots* shall be effective unless:

- a. the total number of *lots* remains the same or decreases;

all resulting *lots* are equal to or exceed the minimum *development standards* of this UDO for *lot width* and *frontage*, *lot area*, *minimum yards*, *minimum bufferyards*, *setbacks*, and contain sufficient developable area to provide for the required *parking areas*, *loading areas* or any other requirements of this UDO;

- b. no new non-conformities are created;

- c. the number of *access* points remains the same or decreases;
 - d. the recombination plat contains any notations, limitations or covenants previously required to be included on the prior plat of the real estate within the area of the recombination;
 - e. the recombination plat is signed by all owners of real estate within the area of the recombination;
 - f. existing or proposed *buildings* or *structures* on any of the proposed recombination *lots* shall not violate any *setback* requirements of the Wake County Health Department regarding private wells and septic systems;
 - g. the recombination has been certified for recording by the *Review Officer*; and,
 - h. the recombination plat has been recorded within sixty (60) days of said approval, or said approval shall be null and void.
10. Relocation or Release of Certain Utility Easements.
- a. Applicability.
 - (1) The procedures of this sub-Section shall be applicable only to the relocation or release of utility easements that provide for Town of Holly Springs utilities and which utility easements were established by the recording of a plat drawing.
 - [Removed Ordinance #14-07]
 - (2) Any utility easement granted directly to a utility operated by an entity other than the Town of Holly Springs may only be relocated or released with the written consent or release from such utility.
[Renumbered Ordinance #14-07]
 - b. Procedures for the Relocation or Release of Town Utility Easements Established by Plat Drawing.
 - (1) Staff Consultation – The property owner shall schedule an appointment with the *Department of Engineering* to discuss the proposed relocation or release of any Town utility easement established by plat drawing. [Supplement #6 corrected typographical error]
 - (2) Relocation Approval – If the *Director of Engineering* concurs with the property owner that the relocation of an easement will not adversely impact the ability of the Town of Holly Springs to provide utility services, the *Director of Engineering* may execute a

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release of easement upon receipt of an acceptable plat drawing to establish the relocated easement signed by all owners of the real estate to be burdened by the easement.

- (3) Release Approval – If the *Director of Engineering* concurs with the property owner that the release of an easement will not adversely impact the ability of the Town of Holly Springs to provide utility services, the *Director of Engineering* may execute a release of easement.
- (4) Appeal of Director of Engineering's Determination – If a property owner disagrees with a determination made by the *Director of Engineering* regarding the release of a town utility easement, such owner may appeal the *Director of Engineering's* determination to the *Town Council* within thirty (30) days of being notified of such determination. Any such appeal shall be filed in writing in the office of the Department of Engineering. [Amended Ordinance #04-06]
- (5) Recording of Release of Easement – Any release of easement or new easement, as provided for in this sub-Section, shall be certified for recording by the Review Officer, and such release of easement or new easement shall be recorded within sixty (60) days of approval, or said approval shall be null and void. Vacation of Land in a Recorded Plat.

[Amended Ordinance #10-11]

11. Waivers.

- a. Waiver of Regulations Contained in Section 9.05, B. – Platting and Recombination Procedures, Section 7.06 - Lot Design and Public Place Reservation, Section 7.07 - Street Design and Right-of-Way Reservation and Section 7.08 - Utility Design and Reservation. [Amended Ordinance 14-07]

Waivers to the requirements, standards and specifications contained in Section 9.05, B. of this UDO regarding Platting and Recombination Procedures, Section 7.06 of this UDO regarding *Lot Design and Public Place Reservation*, Section 7.07 of this UDO regarding *Street Design and Right-of-Way Reservation*, and Section 7.08 of this UDO regarding *Utility Design and Reservation* requirements for *projects* or *subdivisions* may be granted in connection with the approval of a *development petition* as set forth in Section 9.09 – Decision Matrix except for *projects* or *subdivisions* located within the adopted Village District Area Plan boundary as specified in the *Comprehensive Plan*. Where extraordinary hardships or practical difficulties may result from the strict compliance of these

regulations, or the purposes and intent of these regulations may be served to a greater extent by an alternate design, *waivers* to the standards and specifications listed above in this paragraph may be approved so that substantial justice may be done and the public interest served provided that such *waivers* shall not have the effect of nullifying the intent and purposes of this UDO. [Amended Ordinance #13-03]

- b. *Waivers* may only be approved upon making written findings upon the evidence presented in each specific case that:
- (1) The granting of the *waiver* will not be detrimental to public safety, health or welfare or injurious to other property;
 - (2) Conditions upon the request for a *waiver* are unique to the property for which a *waiver* is sought and are not applicable generally to other property;
 - (3) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is not carried out;
 - (4) The *waiver* will not contravene the provisions of this UDO or the *Comprehensive Plan*; and [Supplement #6 corrected typographical error]
 - (5) Where the *waiver* impacts on the design, construction or maintenance obligations of public facilities, that the appropriate public agency has reviewed and approved the proposed development in writing and the subdivider has submitted a copy of such approval.
- c. Procedures for a Review of *Waiver* Request.

At the time of filing a *development petition* for consideration, the developer or *subdivider* shall submit a detailed written statement of all *waivers* to the requirements, standards and specifications contained in Section 7.06 – Lot Design and Public Place Reservation, Section 7.07 – Street Design and Right-of-Way Reservation, Section 7.08 – Utility Design and Reservation or Section 9.05, B. – Platting, Project Construction Drawing Approval and Recombination Procedures, of this UDO regarding *lot*, *street*, infrastructure and utility design requirements for *projects* or *subdivisions* which shall fully state the grounds for the request and file proposed detailed written findings of fact in support of each such *waiver* request. Only those standards and specifications specifically described in the request may be *waived*. [Amended Ordinance #14-07]

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d. Jurisdiction of Waivers.

Only the board or planning agency specified in Section 9.09 – Decision Matrix of this UDO as having authority for the approval of projects or subdivisions with *waivers* shall have the authority to *waive* any of the requirements, standards and specifications contained in Section 7.06 – Lot Design and Public Place Reservation, Section 7.07 – Street Design and Right-of-Way Reservation, Section 7.08 – Utility Design and Reservation or Section 9.05, B. – Platting, Project Construction Drawing Approval and Recombination Procedures, of this UDO regarding *lot, street, infrastructure and utility design requirements for projects or subdivisions*. [Amended Ordinance #14-07]

It is not within the powers or jurisdiction of the *Board of Adjustment* to grant *waivers* of the requirements, standards and specifications contained in Section 7.06 – Lot Design and Public Place Reservation, Section 7.07 – Street Design and Right-of-Way Reservation, Section 7.08 – Utility Design and Reservation or Section 9.05, B. – Platting, Project Construction Drawing Approval and Recombination Procedures, of this UDO regarding *lot, street, infrastructure and utility design requirements for projects or subdivisions*. [Amended Ordinance #14-07]

It is not within the powers of the board or planning agency specified in Section 9.09 – Decision Matrix of this UDO as having authority for the approval of *projects or subdivisions with waivers* to grant a *variance of development standards* in connection with the approval of a *project or subdivision*. [Amended Ordinance #03-12]

Only the *Board of Adjustment* shall have the authority to grant a *variance of development standards* as provided for in this UDO, unless such authority is specifically authorized elsewhere in this UDO as a *waiver* which may be requested in connection with a petition for *development plan* approval for Architectural and Site Design Review or *development options*. [Amended Ordinance #10-11]