

MEMORANDUM

To: Mayor and City Council

From: Steve Foote, AICP
Community Development Director

Date: January 26, 2015

Subject: Six Month Review of Zoning/Land Development Code Rewrite

HISTORY

The changes to Chapter 16 and 27 were presented at the January 12, 2015 City Council meeting. Staff accepted all prior amendments that have been discussed with the City Council as decided in the last meeting. Documents attached to this item as “2nd Read” contain only the edits made by staff following the January 12th meeting. All changes are included in the ordinances for adoption.

BACKGROUND

The City’s Ordinances are established to implement goals and visions identified in the City’s long-range planning documents. As those long-range planning documents are dynamic, the implementation tools themselves should be amended as necessary to maintain concurrence with adopted plans. As such, during the Zoning Code Rewrite adoption process in the fall of 2013, staff committed to conduct analyses in regard to the functionality of the adopted code over the subsequent six months so as to identify any changes that would make the codes more effective and continue guiding development in a Dunwoody-specific manner.

This was performed and staff initiated the review of identified amendments with the City Council in 2014. After lengthy review of the proposed changes the Council initiated the review process with the Community Council and Planning Commission. Both bodies dedicated a considerable amount of time to discussing the proposed changes and listening to input from the public. The documents included in the City Council agenda packet tonight reflect the input of the Community Council, Planning Commission, and the public during the process to date.

RECOMMENDATIONS

Staff recommends approval of the amendments to Chapter 16 and 27 as included in the attached ordinances.

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AN ORDINANCE OF THE CITY OF DUNWOODY REVISING CERTAIN PROVISIONS OF THE READOPTED CHAPTER 16 (LAND DEVELOPMENT) OF THE CITY CODE

WHEREAS, the City of Dunwoody is charged with providing for the health, safety and welfare of the citizens of the City; and

WHEREAS, the City of Dunwoody re-adopted Chapter 16, Land Development, in 2013 with rewritten and reformatted amendments; and

WHEREAS, As part of the process of revising the Land Development Regulations, the City Committed to coming back shortly thereafter to make additional changes as issues came up in order to create clearer regulations more conducive to the character policy goals of the City; and

WHEREAS, the Mayor and City Council have reviewed these recommended changes to the Dunwoody Land Development Code and find that it furthers the City's intended policies and plans and will better serve as development regulations for the future of the City's development; and

WHEREAS, the Mayor and City Council have conducted a properly-advertised Public Hearing prior to adoption of this Ordinance.

THEREFORE, THE MAYOR AND COUNCIL FOR THE CITY OF DUNWOODY HEREBY ORDAIN AS FOLLOWS:

Section 1: Chapter 16 (Land Development) of the City of Dunwoody Code is hereby revised as follows:

ARTICLE I. - INTRODUCTORY PROVISIONS

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~~DIVISION 2. REQUIRED PUBLIC IMPROVEMENTS~~

...

ARTICLE II. ENVIRONMENT AND NATURAL RESOURCES

DIVISION I. GENERAL PROVISIONS

Sec. 16-~~46~~26. Intent.

Sec. 16-~~47~~27. Purpose.

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Sec. 16-~~48~~28. Applicability.

Sec. 16-~~49~~29. Development permits.

Sec. 16-~~50~~30. Site plans.

...

- (6) A separate tree protection plan in conformance with the requirements ~~subsection 16-127(a)~~of this chapter.

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Sec. 16-~~51~~31. Administration.

Sec. 16-~~52~~32. Variances.

- (a) Authorized variances. Except as further limited herein, an applicant may request a variance from the grading regulations of article II, division 2, the soil erosion, sedimentation and pollution control regulations of article II, division 3, the stream buffer regulations of article II, division 4, and the stormwater management regulations of article II, division 5. See section 16-~~161-141~~ for information about variances to flood damage prevention regulations.
- (b) Authority to hear and consider. The zoning board of appeals is authorized to hear variance requests. The zoning board of appeals may not consider or grant variances that are the responsibility of the director of the environmental protection division pursuant to O.C.G.A. § 12-2-8 and other relevant state statutes and regulations.
- (c) Stream buffer variances. The zoning board of appeals is authorized to consider applications for variances to the stream buffer requirements of section 16-~~98-78~~ but not within the 25-foot state buffer zone adjacent to waters of the state as set forth in ~~subsection 16-79(c)(15)~~.59

...

Sec. 16-~~53~~33. Appeals of administrative decisions.

...

- (b) Authority to file. Any person or entity (i.e.: an owner, applicant, adjoining neighbor, or a neighbor whose property is within 1,500 feet of the subject property aggrieved by an administrative decision may appeal the decision. A
~~person aggrieved by any final order, requirement or decision of an~~

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~~administrative official may file an appeal of that administrative decision.~~

- (c) Application filing. Decisions by the community development director made pursuant to this division may be appealed to the Zoning Board of Appeals (ZBA) by filing a request with the community development director within 30 days of the community development director's decision. Decisions will be published on-line, in a newspaper of general circulation within the City, and provided in writing via first class mail to adjacent property owners. The 30 day appeal period shall commence from the date written notification is sent to adjacent property owners. Appeal shall be in accordance with procedures and conditions of this division. If no appeal is made within the 30 day period, the decision of the community development director is final. If an appeal is made to the ZBA, the ZBA must set a hearing date for the appeal within 30 days of the appeal being requested and the decision of the ZBA is final. The 30 day appeal deadline may be waived by the ZBA if the appellant can show evidence that the appeal was filed within 30 days of their actual or constructive notice of the decision. ~~Unless otherwise expressly stated, appeals must be filed with the community development director within 30 days of the date of the order, requirement or decision being appealed. Failure to act is not an order, requirement or decision within the meaning of this section. The appeal must be scheduled to be heard at the next regularly scheduled zoning board of appeals meeting for which required hearing notice can be provided, unless the applicant agrees to a later hearing date.~~

Sec. 16-~~54~~34. Appeals of zoning board of appeals' decisions.

Sec. 16-~~55~~35. Enforcement.

Sec. 16-~~56~~36. Emergency maintenance.

Secs. 16-~~57~~37—16-~~65~~45. Reserved.

DIVISION II. GRADING.

Sec. 16-~~66~~46. Purpose.

Sec. 16-~~67~~47. Regulations.

Secs. 16-~~68~~48—16-~~75~~55. Reserved.

DIVISION III. SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL

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Sec. 16-~~76~~56. Purpose.

Sec. 16-~~77~~57. Compliance with state law.

Any land-disturbing activity permitted under this division must be carried out in accordance with the Georgia Erosion and Sedimentation Act of 1975, O.C.G.A., § 12-7-1 et seq., all applicable city regulations and any conditions attached to the land-disturbance permit issued under section 16-~~80~~60.

Sec. 16-~~78~~58. Applicability and exemptions.

...

- (4) The construction of a single-family residence when that construction disturbs less than one acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and not otherwise exempted under this section, provided however, that construction of a single-family residence must comply with the minimum requirements of section 16-~~79~~59;
- (6) Forestry land management practices, including harvesting; providing, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in subsections 16-~~59~~79(c)(15) and (c)(16), no other land-disturbing activities except for normal forest management practices are allowed on the entire property upon which the forestry practices were conducted for a period of three years after completion of such forestry practices;

...

Sec. 16-~~79~~59. Regulations.

Sec. 16-~~80~~60. Land-disturbance permits.

...

(c) Applications.

- (1) The application for a permit must be submitted to the community development director and must include the applicant's erosion, sedimentation and pollution control plan with supporting data, as necessary. The plans must include, at a minimum, the data specified in subsection (d). Soil erosion, sedimentation and pollution control plans must conform to the provisions of subsections 16-~~79~~(b)59.

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...

- (4) Immediately upon receipt of an application and plan for a permit, the local issuing authority must refer the application and plan to the soil and water conservation district for its review and approval concerning the adequacy of the erosion, sedimentation and pollution control plan. The soil and water conservation district must approve or disapprove a plan within 35 days of receipt. Failure of the soil and water conservation district to act within 35 days will be construed as an approval of the pending plan. The results of the soil and water conservation district review must be forwarded to the local issuing authority. No permit may be issued unless the plan has been approved by the soil and water conservation district, all required fees have been paid and any variances required by subsection 16-~~79(c)(15)~~59.

...

- (e) Permits.

...

- (2) No permit may be issued by the community development director unless the erosion, sedimentation and pollution control plan has been approved and the community development director has affirmatively determined that the plan is in compliance with this chapter, any variances required by subsections 16-~~79(c)(15)~~ and ~~(c)(16)~~59 are obtained, any financial guarantees required in accordance with subsection (c)(6) are provided and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the city are met. If the permit is denied, the reason for denial must be furnished to the applicant.

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Sec. 16-~~81~~61. Appeals.

The suspension, revocation, modification or grant with condition of a permit by the city upon finding that the holder is not in compliance with the approved erosion and sediment control plan or that the holder is in violation of permit conditions entitles the person submitting the plan or holding the permit to appeal the decision to the zoning board of appeals in accordance with section 16-~~53~~33.

Sec. 16-~~82~~62. Enforcement and penalties.

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(b) Penalties.

...

- (3) Bond forfeiture. If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply must be served by the community development director upon that person. The notice must set forth the measures necessary to achieve compliance with the plan and must state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, they will be deemed in violation of this chapter and, in addition to other penalties, will be deemed to have forfeited his performance bond, if required to post one under the provisions of subsection 16-~~80(c)~~(660). The community development director may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

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Sec. 16-~~83~~63. Liability.

Sec. 16-~~84~~64. Education and certification.

Secs. 16-~~85~~65—16-~~95~~75. Reserved.

DIVISION IV. STREAM BUFFERS

Sec. 16-~~96~~76. Applicability.

The stream buffer regulations of this division apply along all perennial and intermittent streams throughout the city except as expressly exempted or permitted in accordance with section 16-~~99~~79.

Sec. 16-~~97~~77. Purpose.

Sec. 16-~~98~~78. Minimum stream buffer requirements.

- (a) Stream buffers are established along all perennial and intermittent streams in the city. These required stream buffers begin at the stream bank and extend 75 feet away from the stream. The buffers must remain undisturbed except as otherwise provided in section 16-~~99~~79.

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- (c) Piping of streams is not allowed in required stream buffers unless a variance is granted in accordance with section 16-~~52~~32.

Sec. 16-~~99~~79. Exemptions and special administrative permits.

- (a) Exemptions. The stream buffer regulations of this division do not apply to any of the following activities, provided that any activity within a state-mandated stream buffer (~~see section 16-79~~) must meet state requirements. Exemption of these activities does not constitute an exemption from any other activity proposed on a property or a requirement to obtain a building/land development permit.

- (1) Work consisting of the usual and customary repair or maintenance of any lawful use of land that is zoned and approved for such use on or before the effective date of this section. Such usual and customary repair and maintenance activities cannot create any land-disturbance, and must occur within the preexisting disturbed area~~;~~.
- (2) Construction of decks, porches~~,~~ or other additions to existing structures, provided that such construction does not require land-disturbance and does not further encroach on the stream buffer~~;~~.
- (3) Existing development and on-going land-disturbance activities including existing agriculture, silviculture, landscaping, gardening and lawn maintenance, except that new development or land-disturbance activities on such properties is subject to all applicable buffer requirements~~;~~.
- (4) Public sewer line installation in easements running parallel with the stream where necessary, except that all easements (permanent and construction) and land~~-~~disturbance within a state waters' buffer must meet state requirements. This includes such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures. This exemption may not be construed as allowing the construction of roads, bike paths or other transportation routes in such easements, regardless of paving material, except for access for the uses expressly identified in this paragraph~~;~~.
- (5) Removal of unwanted ground cover (e.g., poison ivy) using hand tools as long as protective vegetative cover remains to protect water quality

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and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed~~;~~.

- (6) Land development activities within a dedicated transportation right-of-way existing at the time this section takes effect or approved under the terms of this section~~;~~.
- (7) Within an easement of any utility existing at the time this section takes effect or approved under the terms of this section, land-disturbance activities and such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures~~;~~.
- (8) Emergency work necessary to preserve life or property. However, when emergency work is performed, the person performing it must report such work to the community development department on the next business day after commencement of the work. Within ten business days thereafter, the person must apply for a permit and perform such work within such time period as may be determined by the community development department to be reasonably necessary to correct any impairment such emergency work may have caused to the water conveyance capacity, stability or water quality of the protection area~~;~~.
- (9) Forestry and silviculture activities on land that is zoned for forestry, silvicultural or agricultural uses and are not incidental to other land development activity. If such activity results in land-disturbance in the buffer that would otherwise be prohibited, then no other land-disturbing activity other than normal forest management practices will be allowed on the entire property for three years after the end of the activities that intruded on the buffer~~;~~.
- ~~(9)~~(10) Activities to restore or enhance stream bank stability, riparian vegetation, water quality or aquatic habitat, so long as native vegetation and bioengineering techniques are used;
- ~~(10)~~(11) The removal of dead, diseased, insect-infested, or hazardous trees (without any associated land-disturbance), provided the property owner provides sufficient documentation of the condition of the trees before removal, including photographs and a report by a certified arborist; and

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~~(11)~~(12) Multi-use trails and related improvements that are part of a city council-approved plan. Unless otherwise approved by the state, such encroachments must be located at least 25 feet from the banks of state waters when, after study of alternative trail alignments, the community development director determines that the alignment is the most desirable alternative and that they are designed to minimize impervious surfaces and incorporate BMPs and other mitigation practices that minimize the impact of encroachments on water quality. Trail improvements that are part of a city council-approved plan are not counted as part of a site's impervious surface area for purposes of site development-related calculations and regulations.

~~(12) Exemption of these activities does not constitute an exemption for any other activity proposed on a property.~~

(b) Special administrative permits. The following activities may be approved within the stream buffers required by section 16-~~98~~78 by special administrative permit, [pursuant to the process outlined in Chapter 27, Article V, Division 7](#):

- (1) Stream crossings by utility lines, roads, driveways or similar transportation routes, including trails for nonmotorized transportation;
- (2) Public water supply intake or public wastewater outfall structures;
- (3) Land development necessary to provide access to a property;
- (4) Public access facilities that must be on the water including boat ramps, docks, foot trails leading directly to the stream, fishing platforms and overlooks;
- ~~(5) Activities to restore or enhance stream bank stability, riparian vegetation, water quality or aquatic habitat, so long as native vegetation and bioengineering techniques are used;~~
- ~~(6) Repair and reconstruction of existing structures located more than 50 feet from the stream, provided that the repair or reconstruction does not result in additional impervious cover and that riparian vegetation is restored or replaced in any areas of resulting land disturbance.~~

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(5) Stormwater outfalls to the stream, by pipe or channel, necessary to protect the buffer from erosion caused by high-flow velocities due to steep slopes;

~~(5) The removal of dead, diseased, insect infested, or hazardous trees (without any associated land disturbance), provided the property owner provides sufficient documentation of the condition of the trees before removal, including photographs and a report by a certified arborist;~~

(6) Minor land-disturbing activities totaling no more than 200 square feet in area and located more than 25 feet from the stream, for the construction of decks, porches, or other additions to existing structures, and accessory structures where riparian vegetation is restored or replaced in any disturbed areas; and

(7) Construction and land disturbance that results in the reduction or removal of impervious surfaces.

~~Minor land disturbance activities totaling no more than 200 square feet in area, and as required for the installation and removal of stormwater management structures related to projects occurring outside an adjacent stream buffer; and~~

~~Multi-use trails and related improvements that are part of a city council approved plan. Unless otherwise approved by the state, such encroachments must be located at least 25 feet from the banks of state waters when, after study of alternative trail alignments, the community development director determines that the alignment is the most desirable alternative and that they are designed to minimize impervious surfaces and incorporate BMPs and other mitigation practices that minimize the impact of encroachments on water quality. Trail improvements that are part of a city council approved plan are not counted as part of a site's impervious surface area for purposes of site development related calculations and regulations.~~

Sec. 16-~~80100~~. State-mandated stream buffers.

See section 16-~~7959~~.

Secs. 16-~~10181~~—16-~~90110~~. Reserved.

DIVISION V. STORMWATER MANAGEMENT

Sec. 16-~~11191~~. General.

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- (e) Information required with land development permit applications. Except as otherwise expressly exempted, land development permit applications must be accompanied by the following information:

(1) Stormwater management plan in accordance with section 16-~~112~~[92](#);

...

Sec. 16-~~112~~[92](#). Stormwater management plans.

...

- (d) Post-development hydrologic analysis. The post-development hydrologic analysis for stormwater runoff rates, volumes, and velocities must include all of the following:

...

(3) Calculations for determining the runoff volumes that need to be addressed for each subbasin for the development project to meet the post-development stormwater management performance criteria in section 16-~~114~~[94](#);

...

- (e) Stormwater management system. The description, scaled drawings and design calculations for the proposed post-development stormwater management system must include all of the following:

...

(5) Documentation and supporting calculations to show that the stormwater management system adequately meets the post-development stormwater management performance criteria in section 16-~~114~~[94](#);

...

- (j) Maintenance access easements.

...

(2) The access easement to the facility may not have a profile slope steeper than 33 percent and a cross slope of no more than ten percent. The elevation of the maintenance easement around the facility must be established at the top of the dam or wall elevation and be constructed with a cross slope of no more than ten percent to the

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drainage facility. Fencing that complies with the requirement subsection 16-~~113(g)(2)~~93 must be constructed on the outside edge of the maintenance easement. Gates that comply with the requirements of subsection 16-~~113(g)(2)~~93 must be constructed on each maintenance easement.

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Sec. 16-~~113~~93. Design.

Sec. 16-~~114~~94. Performance criteria.

Sec. 16-~~115~~95. Inspections and maintenance.

Secs. 16-~~116~~96—16-~~125~~105. Reserved.

DIVISION VI. TREE PRESERVATION.

Sec. 16-~~126~~106. General.

Sec. 16-~~127~~107. Permit procedure.

Sec. 16-~~128~~108. Tree removal.

Sec. 16-~~129~~109. Tree replacement and revegetation.

Sec. 16-~~130~~110. Specimen and special trees.

Sec. 16-~~131~~111. Tree protection measures.

Sec. 16-~~132~~112. Maintenance.

Sec. 16-~~133~~113. Alternative compliance.

Sec. 16-~~134~~114. Enforcement and penalties.

Sec. 16-~~135~~115. Additional information.

Secs. 16-~~136~~116—16-~~145~~125. Reserved.

DIVISION VII. GROUNDWATER RECHARGE AREAS

Sec. 16-~~146~~126. Environmental planning criteria.

Secs. 16-~~147~~127—16-~~155~~135. Reserved.

DIVISION VIII. FLOOD DAMAGE PREVENTION

Sec. 16-~~136~~~~156~~. General.

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- (f) Violations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) constitutes a violation of this chapter. Any person who violates the flood damage prevention regulations of this division or who fails to comply with any of its requirements will, upon conviction, be subject to a fine and/or imprisonment in accordance with section 1-6 of the municipal code. Each day such violation continues is a separate offense. The city council may take any other lawful action necessary to prevent or remedy any violation. See also the general enforcement provisions of section 16-~~55~~~~35~~.

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Sec. 16-~~157~~~~137~~. Definitions.

Sec. 16-~~158~~~~138~~. Administration.

...

- (b) Development permits. A development permit must be obtained before any construction or other development begins within any special flood hazard area. Application for a development permit must be made on forms furnished by the floodplain coordinator and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.
- (1) Application stage. An application for a development project with any special flood hazard area located on the subject site must include a floodplain management/flood damage prevention plan, which must include all of the following information:

...

- b. Building and foundation design detail, including, but not limited to:

...

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3. Certification that any proposed nonresidential floodproofed structure meets the criteria in subsection 16-~~160(b)(2);~~140
4. For enclosures below the base flood elevation, location and total net area of foundation openings as required in subsection 16-~~160(a)(5);~~140

Sec. 16-~~159~~139. Standards for development.

- (d) Engineering study requirements for floodplain encroachments. An engineering study is required, as appropriate to the proposed development activities on the site, whenever a development proposes to disturb any land within the future-conditions floodplain, except for a residential single-lot development on streams without established base flood elevations and/or floodways for which the provisions of subsection 16-~~160(d)-~~140 apply. This study must be prepared by a registered professional engineer and made a part of the application for a permit. This information must be submitted to and approved by the community development director before the approval of any permit that would authorize the disturbance of land located within the future-conditions floodplain. The study must include:

Sec. 16-~~160~~140. Flood hazard reduction.

- (a) General regulations. The following regulations apply in all special flood hazard areas:
 - (1) New construction of principal buildings (residential or nonresidential), including manufactured homes, are not allowed within the limits of the future-conditions floodplain, unless all requirements of subsections 16-139~~159~~(c), (d), and (e) are met;
- (b) Within future-conditions floodplain. In addition to the general regulations of subsection (a), the following additional regulations apply within the future-conditions floodplain:
 - (1) Residential buildings.

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- a. New construction. New construction of principal buildings, including manufactured homes is not allowed within the limits of the future-conditions floodplain unless all requirements of subsections 16-~~159~~139(c), (d) and (e) have been met. If all of the requirements of subsections 16-~~159~~139(c), (d) and (e) have been met, all new construction must have the lowest floor, including basement, elevated at least three feet above the base flood elevation or at least one foot above the future-conditions flood elevation, whichever is higher. If solid foundation perimeter walls are used to elevate the structure, openings sufficient to equalize the hydrologic flood forces on exterior walls and to facilitate the unimpeded movements of floodwaters must be provided in accordance with subsection (a)(5).
 - b. Substantial improvements. Substantial improvement of any principal structure or manufactured home must have the lowest floor, including basement, elevated at least three feet above the base flood elevation or at least one foot above the future-conditions flood elevation, whichever is higher. If solid foundation perimeter walls are used to elevate a structure, openings sufficient to equalize the hydrologic flood forces on exterior walls and to facilitate the unimpeded movements of floodwaters must be provided in accordance with subsection (a)(5).
- (2) Nonresidential buildings.
- a. New construction. New construction of principal buildings, including manufactured homes is not allowed within the limits of the future-conditions floodplain unless all requirements of subsections 16-~~159~~139(c), (d) and (e) have been met. New construction that has met all of the requirements of subsections 16-~~159~~139(c), (d) and (e) may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to one foot above the base flood elevation, or at least as high as the future-conditions flood elevation, whichever is higher, with walls substantially impermeable to the passage of water and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect must certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above,

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and must provide such certification to the community development director.

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(5) Manufactured homes.

- a. New manufactured homes are not allowed to be placed within the limits of the future-conditions floodplain unless all requirements of subsections 16-1~~5~~39(c), (d) and (e) have been met.

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(f) Subdivisions.

...

- (3) All subdivision plans must provide the elevations of proposed structures in accordance with subsection 16-1~~3~~58(b);

...

Sec. 16-~~161~~141. Variances.

Secs. 16-~~162~~142—16-~~175~~155. Reserved.

ARTICLE III. SUBDIVISIONS

DIVISION I. GENERAL PROVISIONS

Sec. 16-~~176~~156. Policies and purposes.

(a) Policies.

...

- (b) Purposes. The city's subdivision regulations (~~article III, divisions 1 through 6~~) are adopted for the following purposes:

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Sec. 16-~~177~~157. Applicability.

~~Sec. 16-178. Exemptions.~~

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- ~~(a) The subdivision regulations of article III, divisions 1, 2, 3, 4, 5, 6, do not apply to a lot or parcel of land established by deed or plat recorded among the land records of the county prior to the date that DeKalb County subdivision regulations first became effective or to the division or sale of land by judicial decree.~~
- ~~(b) For purposes of this division, the division of land into no more than two lots is considered a subdivision but exempt from the plat review procedures, provided that:~~
- ~~(1) Each proposed lot complies with the requirements of the city zoning ordinance and all conditions of zoning;~~
 - ~~(2) Each proposed lot fronts an existing paved private or public street, which contains the necessary right of way width required by this chapter;~~
 - ~~(3) All such plats are drawn to final plat standards in this chapter; and~~
 - ~~(4)(1) The lot being divided is not a lot which resulted from a subdivision of property that was exempt from these regulations in the immediately preceding 24 months.~~

Sec. 16-~~179~~158. Administration and enforcement.

Secs. 16-~~180~~159—16-~~170~~190. Reserved.

DIVISION 2. MINOR SUBDIVISION PROCEDURE

Sec. 16-~~191~~171. Applicability.

Proposed subdivisions, including major changes to revised final plats, are eligible to be reviewed under the minor subdivision procedures of this division only when all of the criteria are met:[÷]

- (1) The subdivision will result in the creation of no more than three lots;
- (2) The subdivision does not require the extension of utilities (other than individual service lines) or other municipal facilities;
- (3) No right-of-way dedication, no new streets, street improvements, or other required public improvements are ~~is~~ required, as specified in Article IV of this Chapter[÷], ~~and~~

~~No new streets or street improvements are required.~~

Sec. 16-~~172~~192. ~~One-step~~ Minor Subdivision procedure.

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Subdivisions eligible for processing as minor subdivisions require only review, approval, and recording of a final plat in accordance with ~~section 16-207~~ [Article III, Division 4 of this Chapter](#).

Sec. 16-~~193~~173. Public notice.

- (a) The applicant must place a public notification sign on the site of the proposed minor subdivision. The sign must remain in place for at least ~~thirty~~ten days before the date of approval of the minor subdivision plat. The community development director must verify that the sign has been posted. If applicant fails to properly post the required sign, the minor subdivision plat may not be approved until the applicant has properly posted the required notification sign.
- (b) Once the application has been submitted, the applicant and members of the public may submit written comments to the community development director in support of or in opposition to the minor subdivision plat.

Sec. 16-~~194~~174. Compliance with ~~subdivision~~ design and improvement standards.

Subdivisions eligible for processing as minor subdivisions are subject to compliance with all applicable land development regulations, including the design and improvement standards contained in ~~a~~ [Article IV III, division 4 and 5 of this Chapter](#).

Sec. 16-~~195~~175. Successive applications.

Secs. 16-~~196~~176—16-~~205~~185. Reserved.

DIVISION 3. MAJOR SUBDIVISION PROCEDURE

Sec. 16-186. Applicability.

Proposed subdivisions not eligible to be reviewed under the minor subdivision procedures of this Article are required to be reviewed as a Major Subdivision and subsequent final plat, including major changes to revised final plats.

Sec. 16-~~206~~187. ~~Sketch plat/p~~ Preliminary plat Procedures.

- (a) Pre-application conference. Before filing the ~~sketch~~ preliminary plat for a subdivision for review and approval, the applicant must meet with the community development director or his designee to present a generalized concept plan for the proposed project and to discuss the procedure for approval of a subdivision plat and the requirements as to general layout of

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streets, reservations of open space, street improvements, drainage, sewerage, fire protection, and similar matters, as well as the availability of existing infrastructure and services. ~~The community development director may 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.~~ This conference will allow early evaluation of the applicant's intentions and coordination with the comprehensive plan and the zoning ordinance. This conference will also allow city officials to discuss with the applicant the necessary regulations that will properly accomplish the project. The community development director may 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.

...

~~(32) Corner lots. Show that corner lots must have an extra width of not less than 15 feet more than required for interior lots for the zoning district within which they are located;~~

...

(f) Application submittal.

- (1) ~~The community development director must give written notice to the applicant within seven days of the date the sketch plat and application are submitted whether the sketch plat application is accepted for review and the official date of acceptance.~~ An application will be considered complete and ready for processing only when it fully complies with the requirements of ~~subsections (b) through (e).~~ this article

...

(g) Referral of ~~sketch~~ preliminary plat for review.

- (1) Upon official acceptance of the application and the ~~sketch~~ preliminary plat, ~~the community development director must provide copies of the sketch plat to~~ the community development department, public works, ~~police department,~~ and any other city or county department the community development director determines should be consulted for the particularities of the proposed subdivision, shall review the preliminary plat. As part of its review, ~~Each~~ such department and receiving entity must ~~review the sketch plat and must~~ make comments and recommendations regarding any required changes necessary to

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comply with all applicable regulations. ~~Each department must return its annotated copy of the sketch plat and written comments and recommendations to the community development director within 14 days from the date of receipt.~~

...

~~(3) In the event that any revisions to the sketch plat are required, the applicant may submit a revised sketch plat to the community development director and, if the applicant submits a revised sketch plat, the community development director has 14 days to review the revisions and determine whether such revisions are sufficient for approval. If the revisions are insufficient, the community development director must notify the applicant that further revisions to the sketch plat are required and for each set of revisions submitted by the applicant the community development director has 14 days for review as described in this section.~~

- (43) If a ~~sketch~~preliminary plat is not approved within 180 days of the official acceptance of the application, the application and ~~sketch~~preliminary plat is considered withdrawn without further action by the city. The community development director must approve the ~~sketch~~preliminary plat if the application and ~~sketch~~preliminary plat conform to all requested revisions, the requirements of this Code and state law and must deny the ~~sketch~~preliminary plat if the application and ~~sketch~~preliminary plat do not conform to all requested revisions, the requirements of this Code or state law.

~~(h)~~**Sec. 188 Public notice.**

- (1) The applicant must place a public notification sign on the site of the proposed subdivision ~~within seven days of the date that the sketch preliminary plan is determined to be complete and accepted for processing.~~ The sign must remain in place of at least 30 days. The community development director must verify that the sign has been posted. If applicant fails to properly post the required sign, the ~~sketch~~preliminary plat may not be approved until the applicant has properly posted the required notification sign.
- (2) Once the application has been submitted, the applicant and members of the public may submit written comments to the community development director in support of or in opposition to the ~~sketch~~preliminary plat.

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- (3) Following public notice period and determination that the application complies with all city codes, ~~the~~ the community development director ~~may is authorized to~~ approve or disapprove the proposed ~~sketch preliminary~~ plat in accordance with the approval criteria of ~~subsection (i)~~ this article.

~~(4) Any person or entity (i.e., an owner, applicant, adjoining neighbor or a neighbor whose property line is within 1,500 feet of the nearest property line of the proposed subdivision) aggrieved by a denial or approval of a sketch plat, may appeal by filing a petition for writ of certiorari to the county superior court in accordance with state law.~~

...

Sec. 16-189. Compliance with design and improvement standards and (i) approval criteria.

(a) Subdivisions eligible for processing as major subdivisions are subject to compliance with all applicable land development regulations, including the design and improvement standards contained in Article IV of this Chapter.

(b) Approval criteria.

- (1) The community development director may not approve a ~~sketch preliminary~~ plat unless it is found that:

...

- j. All requirements of ~~subsection (c)~~ the preliminary plat procedures have been fulfilled.

...

- (3) After review of the ~~sketch preliminary~~ plat and related comments, and where, in the judgment of the community development director, the ~~sketch preliminary~~ plat conforms to all of the requirements of this chapter and the city zoning ordinance, all conditions of zoning, and any other applicable city regulations or law, ~~the community development director must approve the sketch plat~~ the preliminary plat shall stand approved. The following wording for approval must be shown on the ~~sketch preliminary~~ plat:

...

~~(4) A sketch plat becomes and will be known as a "preliminary plat" upon its approval by the community development director.~~

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- (c) Effect of approval. The preliminary plat does not constitute nor provide assurance of approval of the final plat, but is to be used as the development design for the subdivision and for the acquisition of a development permit as provided for in the city zoning ordinance. The preliminary plat must be submitted to the community development department in a digital format acceptable to the city, prior to or simultaneous with an application for a development permit.
- (d) Lapse of approval. The preliminary plat expires 24 months from the date of its approval. If more than 50 percent of linear feet of total road in the entire development shown on the preliminary plat is complete at the expiration of 24 months from the date of the approval of the preliminary plat, then the community development director is authorized to grant a one-time, one-year extension of the approval of the preliminary plat. An expired preliminary plat is null and void and is of no effect. An expired preliminary plat may not be renewed.
- (e) Preliminary plat amendments. If the approved ~~sketch-preliminary plat, which becomes the preliminary plat,~~ is amended or altered by the applicant, without an approved variance, after approval as a ~~sketch-preliminary plat,~~ then the applicant is required to re-submit the revised preliminary plat ~~as a new sketch plat~~ and begin anew the application process contained in this division.

(4) Sec. 16-190 Appeals.

The decision of the community development director to approve or disapprove the preliminary plat may be appealed to city council by request in writing to the community development director within 30 days of the community development director's decision. Decisions will be published on-line, in a newspaper of general circulation within the City, and provided in writing via first class mail to adjacent property owners. The 30 day appeal period shall commence from the date written notification is sent to adjacent property owners. If no appeal is made within the 30-day period, the decision of the community development director is final. The 30 day appeal deadline may be waived by the city council if the appellant can show evidence that the appeal was filed within 30 days of their actual or constructive notice of the decision. If an appeal is made to the city council, the city council must set a hearing date for the appeal within 30 days of the appeal being requested, and the decision of the city council is final. The city council's decision may be appealed only by a petition for writ of certiorari to the county superior court in accordance with state law. Any person or entity (i.e.: an owner, applicant, adjoining neighbor, or a neighbor whose property is within 1,500 feet of the nearest property line of the proposed subdivision) aggrieved by

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a denial or approval of a preliminary plat, may appeal by filing a petition for writ of certiorari to the county superior court in accordance with state law. ~~Any person or entity (i.e., an owner, applicant, adjoining neighbor or a neighbor whose property line is within 1,500 feet of the nearest property line of the proposed subdivision) aggrieved by a denial or approval of a sketch plat, may appeal by filing a petition for writ of certiorari to the county superior court in accordance with state law.~~

...

Secs. 16-~~191208~~—16-~~200220~~. Reserved.

~~Sec. 16-207. Final plats.~~DIVISION 4. – FINAL PLATS.

Sec. 16-201. Applicability

Minor subdivisions are required to be reviewed under the provisions of this division. Proposed major subdivisions are required to be reviewed under the provisions of this division after completion of all required improvements in accordance with the approved preliminary plat.

Sec. 16-202. Final plat procedure.

- (a) Preparation. The applicant must have a registered surveyor prepare the final plat of the subdivision. An application for final plat approval may be made when a preliminary plat of the proposed subdivision has been approved and construction of all required infrastructure is complete to ascertain its location as built, or as required by this chapter.

...

- (c) Plat review.
 - (1) Upon receipt of the final plat, the community development director must forward copies of the final plat to the following city departments for certification that ~~required~~the improvements are complete and in conformity with the Code of Ordinances~~preliminary plat~~:
 - a. Appropriate official of the department of community development;
 - b. City geographic information system department;
 - ~~c. Police and fire department;~~
 - cd. Public works department;

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- de. Any other department or entity the community development director deems appropriate.
- (2) Any department to which the final plat is submitted must note ~~on the plat~~ whether the development meets or fails to meet the requirements of this Code and of that department, specifically, whether all improvements were properly completed and whether the improvements are in conformity with the preliminary plat, when required by the procedures of this chapter. If the improvements are incomplete or if the improvements are not in conformity with the preliminary plat, the department must note ~~on the plat~~ the manner in which the plat fails to meet these requirements. ~~Each department must return its copy of the final plat with notations made within 21 calendar days of receipt thereof.~~
- (3) Upon receipt of the annotated copies from all of the departments which received the final plat for notation, the community development director must independently review the final plat and determine whether it complies with all city zoning, environmental, and subdivision ordinances and regulations and all applicable state and federal laws. The community development director must certify in writing on the final plat his finding of whether the final plat complies with all city zoning, environmental, and subdivision ordinances and regulations and all applicable state and federal laws.
- (4) The final plat must conform to the approved preliminary plat on file with the city, when one is required by the procedures of this chapter, and must comply with the city zoning and land development ordinances, including any conditions of zoning.
- (5) The final plat may not be forwarded to the city manager until such time as the community development director certifies that the final plat conforms to the approved preliminary plat, if required by the procedures of this chapter, and complies with all city zoning, environmental, and subdivision ordinances and regulations and all applicable state and federal laws.
- (d) City manager approval.
- (1) ~~No later than 14 calendar days after receiving the annotated copies from all of the departments which received the final plat for notation,~~ The community development director must transmit the final plat, ~~containing the certifications required in subsection (c)(1)~~ and any necessary supplemental materials, to the city manager for approval.

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- (2) The city manager as the designee for the governing authority of the city must approve or disapprove the final plat. ~~within ten days of receiving the final plat, as indicated by a receipt stamp on the final plat. If the final plat is not approved or denied within ten days of receipt, the final plat is deemed to be automatically approved and the city manager must acknowledge and certify that automatic approval.~~ If the final plat is denied, the city manager must provide the reasons for denial in writing and such writing must be given to the applicant with the denied plat. If the final plat is approved, the city manager must place the following wording on the original as follows:

"This plat has been submitted to and accepted by the City Manager of the City of Dunwoody, Georgia, and has been approved as required by state law and city codes as meeting all conditions precedent to recording in the county superior court.

Dated this _____ day of _____, _____.

By: _____/_____/_____

[City manager as designee of the governing authority]"

- (3) Final plat acknowledgement and approval by the city manager constitute the approval, if any, required in order to file subdivision plats with the clerk of the county superior court pursuant to O.C.G.A. § 15-6-67(d).
- (e) Appeals. The decision of the city manager to approve or disapprove the final plat may be appealed to the city council by request in writing to the city manager within 30 days of the city manager's decision. Decisions will be published on-line, in a newspaper of general circulation within the City, and provided in writing via first class mail to adjacent property owners. The 30 day appeal period shall commence from the date written notification is sent to adjacent property owners. If no appeal is made within the 30-day period, the decision of the city manager is final. The 30 day appeal deadline may be waived by the city council if the appellant can show evidence that the appeal was filed within 30 days of their actual or constructive notice of the decision. If an appeal is made to the city council, the city council must set a hearing date for the appeal within 30 days of the appeal being requested, and the decision of the city council is final. The city council decision may be appealed only by a petition for writ of certiorari to the county superior court in accordance with state law. Any person or entity (i.e.: an owner, applicant, adjoining neighbor, or a neighbor whose property is within 1,500 feet of the

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nearest property line of the proposed subdivision) aggrieved by a denial or approval of a preliminary plat, may appeal by filing a petition for writ of certiorari to the county superior court in accordance with state law.

- (f) Recording. The approved final plat must be recorded with the clerk of the county superior court by the applicant ~~community development director~~ and returned to the ~~applicant~~community development director.

...

- (o) Disclosure statement.

...

- (4) If the applicant intends to make no representations or commitments to potential purchasers concerning each of the representations set forth in this subsections ~~(o)(2) and (o)(3)~~, the applicant must note the same in the disclosure statement filed with the community development director which statement must be made available by the community development director to the public.

...

(q)Sec. 16-203. Revised final plat. ~~(plat amendments).~~

- (1) The original recorded plat must be used for all revisions.

- a. When it becomes necessary to revise an original recorded final plat due to some error, required adjustment or desired adjustment, the applicant must confer with the community development director to determine if the revision is a minor or major revision. The applicant's surveyor must make the necessary corrections on the original final plat or prepare a new tracing of that portion of the subdivision involved. The subdivision name, date and book and page number of the original recording must be noted on the new plat. If the original final plat is not available, then any proposed revision to the final plat must be considered a major change.

- ~~b. A minor change is one that corrects a drafting or scrivener's error or is otherwise administrative in nature and does not affect how the subdivision will be developed or built. A major change is any other change, including changes that alter how the subdivision will be developed or built, such as, but not limited to, changing or moving lot lines, increasing or decreasing the number of lots, changing the location of any public facilities or utilities, and revising protective covenants applying to the property.~~

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b. *Major.* Changes to an approved or recorded subdivision plat that would significantly alter the layout of any public street, alley, or road shown on such plat, or area reserved thereon for public use, or if it would affect any map, plan, or plat legally recorded before adoption of any subdivision regulations, such amendment shall be approved by the same procedure, rules, and regulations required for a new subdivision.

c. *Minor.* Changes to an approved or recorded subdivision plat, including but not limited to, adjusting lots and lot lines, utility easements, streets, shifting of open space and common areas, and other changes considered by the Director of Community Development to be minor in nature and that do not create any additional lots may be approved administratively by staff as a Final Plat, so long as open space and amenities are not reduced or made less effective, and the overall result is not a substantially new design. The submission of official plats for signing, recording, and for the department record shall be followed as required in this ordinance.

~~e. If the community development director determines the change is minor, then the community development director will obtain the city manager's acknowledgment, approval, and acceptance of the revised final plat, and must file such revised plat with the clerk of the county superior court.~~

d. If the community development director determines the change is major, the revised plat must proceed through the approval process for ~~final plats~~major or minor subdivisions described in this Code, depending on the applicability provisions.

...

~~e. The basis for the community development director's characterization of the change as either major or minor must be recorded on the revised plat.~~

(2) If the original final plat is not available, the applicant must prepare a new Mylar or other durable, stable, and reproducible drafting medium approved by the department of community development, in accordance with this subsection ~~(e)~~.

...

Secs. 16-~~229~~204—16-~~240~~215. Reserved.

...

ARTICLE IV. DESIGN AND IMPROVEMENT STANDARDS

DIVISION 1. General Provisions

Sec. 16-~~26~~216. Purpose.

...

Sec. 16-~~27~~217. Applicability.

Applicants for any building permit or development permit must construct or otherwise provide for public right-of-way improvements as set forth in [this section](#) [article ~~16-28~~](#) if issuance of the permit would result in any of the following:

- (1) Creation of a new access point to a public street;
- (2) Addition of eight or more motor vehicle parking stalls on the subject lot;
- (3) Structural improvements to existing buildings that exceed 25 percent of the county tax assessor's 100 percent assessed value of the existing improvements on the subject property, based on the value of all structural improvements over the previous 12-month period;
- (4) New buildings or building additions that result in an increase in existing building floor area on the subject property by more than ten percent, based on the total floor area added over the previous 12-month period; or
- (5) A change in use or method of operation that results in a 20 percent or greater increase in traffic generation potential, based on average daily and peak-hour traffic generation data published by the Institute of Transportation Engineers (ITE).
- (6) Any subdivision that results in a net increase in the number of single family lots or is for a commercial/industrial zoned property shall provide off-site improvements per this Section.

Sec. 16-218. Exemptions.

This article shall not apply to the following:

- (1) Additions and accessory structures to existing single-family residential dwellings;

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- (2) Minor subdivisions in single-family residential districts where no additional lots are created; and ~~and where there is no proposed construction beyond additions and accessory structures (i.e.: lot lines are adjusted)~~
- (3) New and/or replacement homes on existing lots where a single-family residential dwelling will be demolished and replaced and there is no net increase in the number of dwelling units. This includes the construction of a new single family home on an existing vacant lot., ~~except those that exist along an arterial, collector, or other as expressly stated in a city adopted plan.~~

Sec. 16-~~28~~219. Requirements.

The community development director is authorized to determine, in consultation with other affected city departments and service providers, whether one or more of the following public right-of-way improvements abutting the subject property are deficient and must be brought up to current standards to mitigate the impacts of a permitted action set forth in ~~section 16-27~~this article. Construction or provision of those improvements in the manner specified by the community development director must be a condition of granting the applicable permit:

...

Sec. 16-~~29~~220. Construction.

~~Unless~~At the discretion of the community development director, a deferral and/or fee in lieu of improvements ~~is~~may be granted in accordance with ~~section 16-30~~this article, otherwise, applicants for a building permits or development permits must construct required improvements in conformance with all applicable city requirements.

...

Sec. 16-~~221~~30. Deferral and fee in lieu of improvements.

...

Sec. 16-~~31~~222. Appeals.

Decisions by the community development director made pursuant to this division may be appealed to the city council by filing a request with the community development director within 30 days of the community development director's decision. Decisions will be posted on the City's web page and in a newspaper of general circulation within the City. The 30 day appeal period shall start to run upon the earlier of said postings. Appeal shall be in accordance with procedures and

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[conditions in Chapter 16, Section 16-33.](#) If no appeal is made within the 30-day period, the decision of the community development director is final. If an appeal is made to the city council, the city council must set a hearing date for the appeal within 30 days of the appeal being requested and the decision of the city council is final. The city council decision may be appealed only by a petition for writ of certiorari to the county superior court in accordance with state law.

...

Secs. 16-~~32~~[23](#)—16-~~45~~[235](#). Reserved.

DIVISION [24](#). ~~SUBDIVISION~~ DESIGN

Sec. 16-~~236~~[221](#). General.

- (a) Adequate public facilities. The applicant must submit sufficient information and data with the application on the proposed subdivision to demonstrate compliance with the following:

[\(7\) Common areas. Where present, common areas, such as stormwater detention and open spaces, shall be dedicated to a required home owners association for maintenance and ownership responsibilities. Common areas are not subject to the requirements for lots.](#)

...

Sec. 16-~~222~~[237](#). Streets.

~~(a) Applicability. The provisions of this section apply to streets in subdivisions and in other projects requiring a development or land disturbance permit from the city.~~

...

~~(e)~~[f](#) Intersections.

- (1) Spacing. Street intersections with ~~centerline offsets of~~[nearest edge of pavement offsets](#) less than 125 feet are prohibited.

...

~~(g)~~[h](#) Private streets.

...

- (14) At the end of the 12-month maintenance period provided for in [this](#) subsection ~~16-244(f)~~, a developer must provide a maintenance bond

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or letter of credit, renewable annually, to cover the cost of maintenance and repair for any private streets within a subdivision. The bond must be for an amount equal to 50 percent of the current estimate of resurfacing costs, as determined by the community development director or his designee. The developer may avoid securing a maintenance bond if they submit proof to the department of community development that 100 percent of the then-current estimate of resurfacing costs, as determined by the community development director, has been deposited in an interest-bearing account on behalf of the property owners' association. If the developer chooses this alternative, the declarations of covenants and articles of association must specifically require the property owners' association to continuously maintain 100 percent of the then-current estimate of resurfacing costs of the private streets in this maintenance fund.

- (15) The property owners' association must be empowered to levy assessments against owners within the development for the payment of expenditures made by the association for maintenance of the private streets and other items set forth in this subsection ~~(h)(11)~~. At least 15 percent of all fees or assessments paid must be set aside in the maintenance fund. Any unpaid assessments will constitute a lien in favor of the property owners' association on the lot, building or unit of the owner.

...

- (~~j~~i) Street cross-sections. Except as expressly stated in a city-adopted plan (e.g., Dunwoody Village) or within the city's standards and specifications, all streets must be designed and constructed in ~~accordance~~ substantial compliance with the regulations of the ~~following~~ table below. Modifications of this table may be approved by the community development director based on contextual constraints.

...

- (~~k~~j) Right-of-way and street improvements.

- (1) All proposed new streets must be designed and built in accordance with the standards listed in this article ~~subsection (j)~~ and the city's standards and specifications.

...

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- b. Install all required sidewalks, street trees, streetlights, and place utilities in accordance with the standards in [this article](#)~~subsection (j)~~; and
- c. Provide a minimum of 50 percent of the roadway pavement required in [this article](#)~~subsection (j)~~ and install it to the right-of-way centerline.

...

Sec. 16-~~223~~[238](#). Street trees.

Sec. 16-~~224~~[239](#). Easements.

Sec. 16-~~225~~[240](#). Blocks.

Sec. 16-~~226~~[241](#). Lots.

- (a) Dimension, size, ~~and~~ shape, [and](#) orientation. The lot ~~size~~[area](#), [frontage](#), width, depth, shape and orientation ~~and the minimum building setback, side yard, and rear yard lines~~ in subdivisions must be in accordance with requirements of the city zoning [and land development](#) ordinances.
- (b) Frontage. Each subdivision lot must front upon an existing paved private or public street.
- (c) Through lots and reverse frontage lots. Through lots and reverse frontage lots are discouraged in subdivisions except along limited access highways, such as interstate highways. Where it is necessary to provide separation of residential development from arterials or to overcome specific disadvantages of topography and orientation, lots fronting such features may be platted in greater depth so that dwellings may be set back an additional distance from the arterial or other feature. Such lots may obtain vehicular access from a rear alley. Lots having access from an alley do not constitute prohibited through lots. A landscape reservation of at least ten feet in width, and across which there is no right of vehicular access, may be required along the lot lines of lots abutting any disadvantageous feature, [including a busy roadway](#), or land use where access should be restricted in the public interest.
- (d) Side lot lines. Side lot lines in subdivisions must be substantially at right angles or radial to street lines as they extend from the front lot line to the front building line.
- (e) [Corner lots. Corner lots must have an extra width of not less than 15 feet more for each street frontage than required for interior lots for the zoning district within which they are located.](#)

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(f) Buildable area. Lot shall contain adequate buildable area that is suitable for the intended use.

(g) Spite strips. The creation of spite strips is prohibited.

(h) Flag lots. The creation of flag lots is prohibited.

Sec. 16-~~227~~242. Common open space.

Sec. 16-~~228~~243. Public and civic sites.

Secs. 16-~~229~~244—16-~~240~~255. Reserved.

...

DIVISION ~~53~~. ~~SUBDIVISION~~ IMPROVEMENTS

Sec. 16-~~241~~256. ~~General~~Utilities.

~~(a) Applicability. This division applies to required improvements for or in subdivisions~~

(~~a~~b) Location of required utilities in public rights-of-way. All required utilities within city rights-of-way must be located as shown in the city's standards and specifications and as stated in this division.

...

Sec. 16-~~242~~257. Water.

Sec. 16-~~243~~258. Sewer.

Sec. 16-~~244~~259. Streets.

...

(b) *Street signs.*

~~(1) The city's standard steel post with horizontal reflectorized street nameplates with four inch letters must be furnished and set by the city at all subdivision street intersections.~~

~~(2) The applicant must pay to the city for each street name sign a fee in the amount established by the community development director and approved by the city council.~~

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~~(3) To ensure that all street markers are paid for by the applicant and installed at the proper time, the required street markers will be paid for by the applicant at the time of recording.~~

~~(4) Street name signs must be installed before a final plat is approved.~~

(1) Traffic control devices. Street signs, traffic control signs, and devices such as striping and signalization, shall be provided by the developer at no cost to the city. All devices shall be installed prior to the approval of a final plat, or where no final plat is required, prior to the issuance of a certificate of occupancy.

(2) Signing.

a. All signing and pavement marking must be designed and installed in conformance with the latest edition of the Manual on Uniform Traffic Control Devices.

b. All signposts to be placed within concrete area must have six-inch wide diameter space through substructure.

c. The signs shall be new die cut anodized aluminum (at least .080 inches thick) with a corner radius no smaller than one and a half inches and installed on a single square post with standard hardware. This post should be installed to break-away standards with a slip base. Should the applicant wish to use decorative poles, a custom permit will need to be applied for in the public works department.

d. As part of the land disturbance permit process, the developer shall identify the type, number and location of signs.

e. The applicant will be responsible for maintaining the signs from installation to final inspection. The city reserves the right to replace stop or yield signs if they have been down for more than 12 hours, to replace any regulatory signs if they have been down for more than seven days, and to replace any other signs if they have been down for more than 14 days. The developer will be responsible for any costs incurred.

f. The sign inspection shall be done by the department of community development prior to acceptance of the final plat or as established by the director of community development. The

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signs shall be included in the right of way surety at the same time as the pavement. If the city needs to replace any signs at the time of the final inspection, the value would be forfeited.

g. The street name sign should be two-sided and constructed on flat, not extruded, blades.

....

(h) Sidewalks and bicycle lanes.

- (1) Sidewalks are required on all sides of all new street frontages ~~on all new~~ and on the subject side of all improved ~~local residential~~ streets in all subdivisions ~~and along the street frontage of all new and improved nonresidential developments~~ and as set forth in subsection 16-22~~32~~(j), unless the community development director determines that a deferral or fee in lieu is approved in accordance with Section 16-221.~~÷~~

~~Sidewalks are infeasible and their absence in the particular circumstances will not be detrimental to the public health, safety or welfare of the public or injurious to the property or public improvements;~~

- ~~a. The requested sidewalk exception does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other similarly situated properties; and The requested exception is consistent with all relevant purpose and intent statements of this chapter.~~

...

- (4) A grassed, planted or landscaped strip, as set forth in ~~subsection 16-222~~(jthis article), must separate all sidewalks from adjacent curbs, bridges excepted. The community development director may

...

- (7) All sidewalk construction and repairs must provide for wheelchair ramps to and from sidewalks at the intersection of each street corner and crosswalk. Access ramps must be constructed pursuant to standards approved by the public works department.

a. All driveways with sidewalks and sidewalk crosswalk installations are required to be constructed in accordance with the Accessible Sidewalk standards published by the U.S. Department of

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[Transportation, Federal Highway Administration, in FHWA-SA-03-01 as amended.](#)

...

- (9) Bicycle lanes are required on new or substantially improved arterials or collector streets where the posted speed limit is 35 miles per hour or greater. Bicycle lanes may also be required by the community development director where necessary to provide connections to bikeways identified on the comprehensive transportation plan or other adopted plan. Bicycle lanes must be constructed as follows:

- a. Bicycle lanes, where required, must be at least four feet wide and placed in the outside lane of a roadway, adjacent to the curb and gutter or shoulder. Curb and gutter areas may not be counted in calculating the width of a bicycle lane. When on-street parking is permitted, bicycle lanes must be at least four feet in width and located between the parking lane and the outer travel lane. Bicycle pavement widths are in addition to the minimum pavement width required for the road. ~~See also subsection 16-222(j).~~

...

Sec. 16-~~245~~260. Private sewage disposal.

Secs. 16-~~246~~261—16-~~255~~270. Reserved.

...

ARTICLE V. VARIANCES

DIVISION ~~61~~. ~~SUBDIVISION~~ VARIANCES

Sec. 16-~~256~~271. Authority.

- (a) The zoning board of appeals is authorized to hear and decide applications for variances from the strict application of ~~the subdivision design standards of article III, division 4~~Articles III or IV, where strict application of any of the regulations of this Articles III or IV ~~regulations of article III, division 4~~ would result in exceptional and undue hardship to the owner of such property. These regulations provide the minimum necessary requirements ~~for subdivisions in the city~~; thus, variances from the requirements of ~~article III, division 4~~Articles III or IV may be authorized only upon the zoning board of appeals making all of the following findings:

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- (1) By reason of the shape or topographical conditions of a parcel of property which were not created by the owner or applicant, the strict application of ~~article III, division~~ Articles III or IV 4 would deprive the property owner of rights and privileges enjoyed by other similarly situated property owners in the same zoning district;

...

- (b) No variance may be granted by the zoning board of appeals to:

...

- (3) Vary the requirements set forth section 16-~~226~~241.

...

Secs. 16-~~257~~272—16-~~265~~280. Reserved.

...

ARTICLE ~~IV~~VI. ~~TERMINOLOGY~~MEASUREMENTS, LANGUAGE, AND DEFINITIONS

DIVISION I. RULES OF LANGUAGE AND INTERPRETATION

Sec. 16-~~266~~281. Meanings and intent.

The language of these land development regulations must be read literally. Regulations are no more or less strict than stated. Words and terms expressly defined in these land development regulations ~~(See, for example, article IV, division 2)~~ have the specific meanings assigned, unless the context clearly indicates another meaning. Words that are not expressly defined in these land development regulations have the meaning given in the latest edition of Merriam-Webster's Unabridged Dictionary.

...

Sec. 16-~~267~~282. Tenses and usage.

Sec. 16-~~268~~283. Conjunctions.

Sec. 16-~~269~~284. Computation of time.

Sec. 16-~~270~~285. Headings and illustrations.

Sec. 16-~~271~~286. References to other regulations.

Sec. 16-~~272~~287. Current versions and citations.

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Sec. 16-~~273~~288. Lists and examples.

Sec. 16-~~274~~289. Delegation of authority.

Sec. 16-~~275~~290. Public officials and agencies.

Secs. 16-~~276~~291—16-~~285~~300. Reserved.

...

DIVISION 2. DEFINITIONS

Sec. 16-~~286~~301. Terms defined.

...

(f) Terms beginning with "F."

...

(l) Terms beginning with "L."

...

Land-disturbing activity means any activity that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting and filling of land, but not including agricultural practices as described in subsection 16-~~78(5)~~58.

Lot, corner, means a lot abutting upon two or more streets at their intersection or upon two parts of the same street forming an interior angle of less than 135 degrees.

Lot, flag means a lot that sits behind lots which face directly onto a street with access provided to the bulk of the lot by means of a narrow corridor, whether providing the minimum amount of street frontage and width or not.

(s) Terms beginning with "S."

...

Special flood hazard area (SFHA) means an area in the floodplain subject to a one-percent or greater chance of flooding in any given year. This includes areas shown on an FHBM or FIRM as zone A, AO, A1-A30, AE, A99, AE, AO, AH or AR; all floodplain and floodprone areas at or below the future-conditions flood elevation; and all other floodprone areas as referenced in ~~subsection 16-156(g)~~ section 16-

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[136](#). All streams with a drainage area of 100 acres or greater must have the special flood hazard area delineated.

Special tree means any tree that qualifies for special consideration for preservation due to its size, type, and condition ~~(See [section] 16-130)~~.

Specimen tree means any tree that has been determined by the city arborist to be of high value because of its type, size, age, and/or of historical significance, or other professional criteria, and has been so designated in administrative standards established by the city. This is usually a plant with desirable form, foliage, fruit or flower that can be emphasized although isolated ~~(See [section] 16-130)~~.

...

Spite strip means a piece of land used to separate a street or road rights-of-way from adjoining property and whose primary purpose is to preclude access to such rights-of-way.

...

(w) Terms beginning with "W."

...

Width, lot means the distance between the side lot lines, measured along a line drawn parallel to the front lot line at a distance from the front lot line equal to the minimum street yard setback. For lots with curvilinear frontage and setback lines (e.g.: cul-de-sac lots), the width shall be measured as a straight line through the points that intersect the side lot lines at a distance from the front lot line equal to the minimum street yard setback.

Section 2: This Amendment shall become effective upon its approval by Mayor and City Council, and incorporated into the Code of the City of Dunwoody, Georgia. This Amendment hereby repeals any and all conflicting ordinances and amendments.

SO ORDAINED, this ____ day of _____, 2015.

Approved:

Michael G. Davis, Mayor

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ATTEST:

Approved as to Form and Content:

Sharon Lowery, City Clerk

Office of City Attorney

**Final Amendments to Chapter 16, Land Development Code
Revisions from January 12, 2015 City Council Meeting**

ARTICLE II. ENVIRONMENT AND NATURAL RESOURCES

DIVISION I. GENERAL PROVISIONS

...

Sec. 16-33. Appeals of administrative decisions.

...

(b) Authority to file. Any person or entity (i.e.: an owner, applicant, adjoining neighbor, or a neighbor whose property is within 1,500 feet of the subject property aggrieved by an administrative decision may appeal the decision.

(c) Application filing. Decisions by the Community Development Director made pursuant to this division may be appealed to the Zoning Board of Appeals (ZBA) by filing a request with the Community Development Director within 30 days of the community development director's decision. Decisions will be published on-line, in a newspaper of general circulation within the City, and provided in writing via first class mail to adjacent property owners. The 30 day appeal period shall commence from the date written notification is sent to adjacent property owners.

Comment [SF1]: Insert includes a modified version of the wording recommended by Mr. Wittenstein. This is used elsewhere as applicable.

Appeal shall be in accordance with procedures and conditions of this division. If no appeal is made within the 30 day period, the decision of the community development director is final. If an appeal is made to the ZBA, the ZBA must set a hearing date for the appeal within 30 days of the appeal being requested and the decision of the ZBA is final. The 30 day appeal deadline may be waived by the ZBA if the appellant can show evidence that the appeal was filed within 30 days of their actual or constructive notice of the decision.

...

DIVISION 3. MAJOR SUBDIVISION PROCEDURE

...

Sec. 16-190 Appeals.

The decision of the community development director to approve or disapprove the preliminary plat may be appealed to city council by request in writing to the community development director within 30 days of the community development director's decision. Decisions will be published on-line, in a newspaper of general circulation within the City, and provided in writing via first class mail to adjacent property owners. The 30 day appeal period shall commence from the date written notification is sent to adjacent property owners. If no appeal is made within the 30-day period, the decision of the community development director is final. The 30 day appeal deadline may be waived by the city council if the appellant can show evidence that the appeal was filed within 30 days of their actual or constructive notice of the decision. If an appeal is made to the city council, the city council must set a hearing date for the appeal within 30 days of the appeal being requested, and the decision of the city council is final.

Comment [SF2]: Insert includes a modified version of the wording recommended by Mr. Wittenstein.

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The city council's decision may be appealed only by a petition for writ of certiorari to the county superior court in accordance with state law. Any person or entity (i.e.: an owner, applicant, adjoining neighbor, or a neighbor whose property is within 1,500 feet of the nearest property line of the proposed subdivision) aggrieved by a denial or approval of a preliminary plat, may appeal by filing a petition for writ of certiorari to the county superior court in accordance with state law. ...

...

DIVISION 4. – FINAL PLATS. ...

Sec. 16-202. Final plat procedure.

...

- (d) Appeals. The decision of the city manager to approve or disapprove the final plat may be appealed to the city council by request in writing to the city manager within 30 days of the city manager's decision. Decisions will be published on-line, in a newspaper of general circulation within the City, and provided in writing via first class mail to adjacent property owners. The 30 day appeal period shall commence from the date written notification is sent to adjacent property owners. If no appeal is made within the 30-day period, the decision of the city manager is final. The 30 day appeal deadline may be waived by the city council if the appellant can show evidence that the appeal was filed within 30 days of their actual or constructive notice of the decision. If an appeal is made to the city council, the city council must set a hearing date for the appeal within 30 days of the appeal being requested, and the decision of the city council is final. The city council decision may be appealed only by a petition for writ of certiorari to the county superior court in accordance with state law. Any person or entity (i.e.: an owner, applicant, adjoining neighbor, or a neighbor whose property is within 1,500 feet of the nearest property line of the proposed subdivision) aggrieved by a denial or approval of a preliminary plat, may appeal by filing a petition for writ of certiorari to the county superior court in accordance with state law.

Comment [SF3]: Insert includes a modified version of the wording recommended by Mr. Wittenstein.

...

Sec. 16-203. Revised final plat.

- (1) The original recorded plat must be used for all revisions.
- a. When it becomes necessary to revise an original recorded final plat due to some error, required adjustment or desired adjustment, the applicant must confer with the community development director to determine if the revision is a minor or major revision. The applicant's surveyor must make the necessary corrections on the original final plat or prepare a new tracing of that portion of the subdivision involved. The subdivision name, date and book and page number of the original recording must be noted on the new plat. If the original final plat is not available, then any proposed revision to the final plat must be considered a major change.

Comment [SF4]: Retained as discussed.

...

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ARTICLE IV. DESIGN AND IMPROVEMENT STANDARDS

...

Sec. 16-217. Applicability.

Applicants for any building permit or development permit must construct or otherwise provide for public right-of-way improvements as set forth in this article if issuance of the permit would result in any of the following:

- (1) Creation of a new access point to a public street;
- (2) Addition of eight or more motor vehicle parking stalls on the subject lot;
- (3) Structural improvements to existing buildings that exceed 25 percent of the county tax assessor's 100 percent assessed value of the existing improvements on the subject property, based on the value of all structural improvements over the previous 12-month period;
- (4) New buildings or building additions that result in an increase in existing building floor area on the subject property by more than ten percent, based on the total floor area added over the previous 12-month period; or
- (5) A change in use or method of operation that results in a 20 percent or greater increase in traffic generation potential, based on average daily and peak-hour traffic generation data published by the Institute of Transportation Engineers (ITE).
- (6) Any subdivision that results in a net increase in the number of single family lots or is for a commercial/industrial zoned property shall provide off-site improvements per this Section.

Comment [SF5]: New requirement to address the need for certain subdivisions to provide for off-site improvements.

Sec. 16-218. Exemptions.

This article shall not apply to the following:

- (1) Additions and accessory structures to existing single-family residential dwellings;
- (2) Minor subdivisions in single-family residential districts where no additional lots are created; and,
- (3) New and/or replacement homes on existing lots where a single-family residential dwelling will be demolished and replaced and there is no net increase in the number of dwelling units. This includes the construction of a new single family home on an existing vacant lot.

Comment [SF6]: Additional language to address the requirement for "no net increase" in the number of dwellings or dwelling sites.

...

Sec. 16-222. Appeals.

Decisions by the community development director made pursuant to this division may be appealed to the city council by filing a request with the community development director within 30 days of the community development director's decision. Decisions will be posted on the City's web page and in a newspaper of general circulation within the City. The 30 day appeal period shall start to run upon the

Comment [SF7]: No changes made. This section as it deals only with off-site improvements adjacent to a particular site and does not necessarily impact adjacent properties. Therefore, the additional notice provision to adjacent property owners has not been included.

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earlier of said postings. Appeal shall be in accordance with procedures and conditions in Chapter 16, Section 16-33. If no appeal is made within the 30-day period, the decision of the community development director is final. If an appeal is made to the city council, the city council must set a hearing date for the appeal within 30 days of the appeal being requested and the decision of the city council is final. The city council decision may be appealed only by a petition for writ of certiorari to the county superior court in accordance with state law.

...

DIVISION 3. IMPROVEMENTS

...

Sec. 16-259. Streets.

...

(b) Street Signs.

- ~~(1) The city's standard steel post with horizontal reflectorized street nameplates with four inch letters must be furnished and set by the city at all subdivision street intersections.~~
- ~~(2) The applicant must pay to the city for each street name sign a fee in the amount established by the community development director and approved by the city council.~~
- ~~(3) To ensure that all street markers are paid for by the applicant and installed at the proper time, the required street markers will be paid for by the applicant at the time of recording.~~
- ~~(4) Street name signs must be installed before a final plat is approved.~~

Comment [SF8]: City Council left in and ZBA references removed.

Comment [SF9]: The following change makes the developer of a new subdivision responsible for installing street signs. Currently the developer pays a fee to the City of Dunwoody, who in turn installs the signs. This will simplify the process and ensure that signs are installed prior to plat recording.

(1) Traffic control devices. Street signs, traffic control signs, and devices such as striping and signalization, shall be provided by the developer at no cost to the city. All devices shall be installed prior to the approval of a final plat, or where no final plat is required, prior to the issuance of a certificate of occupancy.

(2) Signing.

- a. All signing and pavement marking must be designed and installed in conformance with the latest edition of the Manual on Uniform Traffic Control Devices.
- b. All signposts to be placed within concrete area must have six-inch wide diameter space through substructure.
- c. The signs shall be new die cut anodized aluminum (at least .080 inches thick) with a corner radius no smaller than one and a half inches and installed on a single square post with standard hardware. This post should be installed to break-away standards with a slip base. Should the applicant wish to use decorative poles, a custom permit will need to be applied for in the public works department.

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- d. As part of the land disturbance permit process, the developer shall identify the type, number and location of signs.
- e. The applicant will be responsible for maintaining the signs from installation to final inspection. The city reserves the right to replace stop or yield signs if they have been down for more than 12 hours, to replace any regulatory signs if they have been down for more than seven days, and to replace any other signs if they have been down for more than 14 days. The developer will be responsible for any costs incurred.
- f. The sign inspection shall be done by the department of community development prior to acceptance of the final plat or as established by the director of community development. The signs shall be included in the right of way surety at the same time as the pavement. If the city needs to replace any signs at the time of the final inspection, the value would be forfeited.
- g. The street name sign should be two-sided and constructed on flat, not extruded, blades.

...

ARTICLE I. - INTRODUCTORY PROVISIONS

...

DIVISION 2. REQUIRED PUBLIC IMPROVEMENTS

...

Sec. 16-~~46~~26. Intent.

Sec. 16-~~47~~27. Purpose.

Sec. 16-~~48~~28. Applicability.

Sec. 16-~~49~~29. Development permits.

Sec. 16-~~50~~30. Site plans.

...

(6) A separate tree protection plan in conformance with the requirements ~~subsection 16-127(a)~~ of [this chapter](#).

...

Sec. 16-~~51~~31. Administration.

Sec. 16-~~52~~32. Variances.

(a) Authorized variances. Except as further limited herein, an applicant may request a variance from the grading regulations of article II, division 2, the soil erosion, sedimentation and pollution control regulations of article II, division 3, the stream buffer regulations of article II, division 4, and the stormwater management regulations of article II, division 5. See section 16-~~161~~ [141](#) for information about variances to flood damage prevention regulations.

(b) Authority to hear and consider. The zoning board of appeals is authorized to hear variance requests. The zoning board of appeals may not consider or grant variances that are the responsibility of the director of the environmental protection division pursuant to O.C.G.A. § 12-2-8 and other relevant state statutes and regulations.

(c) Stream buffer variances. The zoning board of appeals is authorized to consider applications for variances to the stream buffer requirements of section 16-~~98~~ [78](#) but not within the 25-foot state buffer zone adjacent to waters of the state as set forth in ~~sub~~section 16-~~79(c)(15)~~ [59](#)

...

Sec. 16-~~53~~33. Appeals of administrative decisions.

...

(b) Authority to file. [Any person or entity \(i.e.: an owner, applicant, adjoining neighbor, or a neighbor whose property is within 1,500 feet of the subject property aggrieved by an administrative decision may](#)

Comment [SF1]: Note: the Community Council recommended removing the 1,500' distance requirement. The Planning Commission retained the 1,500' as originally drafted by staff.

appeal the decision. ~~A person aggrieved by any final order, requirement or decision of an administrative official may file an appeal of that administrative decision.~~

(c) **Application filing.** Decisions by the community development director made pursuant to this division may be appealed to the Zoning Board of Appeals (ZBA) by filing a request with the community development director within 30 days of the community development director's decision. Decisions will be posted on the City's web page and in a newspaper of general circulation within the City. The 30 day appeal period shall start to run upon the earlier of said postings. Appeal shall be in accordance with procedures and conditions of this division. If no appeal is made within the 30 day period, the decision of the community development director is final. If an appeal is made to the ZBA, the ZBA must set a hearing date for the appeal within 30 days of the appeal being requested and the decision of the ZBA is final. The 30 day appeal deadline may be waived by the ZBA if the appellant can show evidence that the appeal was filed within 30 days of their actual or constructive notice of the decision. ~~Unless otherwise expressly stated, appeals must be filed with the community development director within 30 days of the date of the order, requirement or decision being appealed. Failure to act is not an order, requirement or decision within the meaning of this section. The appeal must be scheduled to be heard at the next regularly scheduled zoning board of appeals meeting for which required hearing notice can be provided, unless the applicant agrees to a later hearing date.~~

Comment [SF2]: Posting actions on the City web page and in one of the 'city' newspapers was recommended by the Planning Commission.

Sec. 16-~~54~~34. Appeals of zoning board of appeals' decisions.

Sec. 16-~~55~~35. Enforcement.

Sec. 16-~~56~~36. Emergency maintenance.

Secs. 16-~~57~~37—16-~~65~~45. Reserved.

...

Sec. 16-~~66~~46. Purpose.

Sec. 16-~~67~~47. Regulations.

Secs. 16-~~68~~48—16-~~75~~55. Reserved.

...

Sec. 16-~~76~~56. Purpose.

...

Sec. 16-~~77~~57. Compliance with state law.

Any land-disturbing activity permitted under this division must be carried out in accordance with the Georgia Erosion and Sedimentation Act of 1975, O.C.G.A., § 12-7-1 et seq., all applicable city regulations and any conditions attached to the land-disturbance permit issued under section 16-~~80~~60.

...

Sec. 16-~~78~~58. Applicability and exemptions.

...

(4) The construction of a single-family residence when that construction disturbs less than one acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and not otherwise exempted under this section, provided however, that construction of a single-family residence must comply with the minimum requirements of section 16-~~79~~59;

(6) Forestry land management practices, including harvesting; providing, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in subsections 16-~~59~~79(c)(15) and (c)(16), no other land-disturbing activities except for normal forest management practices are allowed on the entire property upon which the forestry practices were conducted for a period of three years after completion of such forestry practices;

...

Sec. 16-~~79~~59. Regulations.

...

Sec. 16-~~80~~60. Land-disturbance permits.

...

(c) Applications.

(1) The application for a permit must be submitted to the community development director and must include the applicant's erosion, sedimentation and pollution control plan with supporting data, as necessary. The plans must include, at a minimum, the data specified in subsection (d). Soil erosion, sedimentation and pollution control plans must conform to the provisions of subsections 16-~~79~~(b)59.

...

(4) Immediately upon receipt of an application and plan for a permit, the local issuing authority must refer the application and plan to the soil and water conservation district for its review and approval concerning the adequacy of the erosion, sedimentation and pollution control plan. The soil and water conservation district must approve or disapprove a plan within 35 days of receipt. Failure of the soil and water conservation district to act within 35 days will be construed as an approval of the pending plan. The results of the soil and water conservation district review must be forwarded to the local issuing authority. No permit may be issued unless the plan has been approved by the soil and water conservation district, all required fees have been paid and any variances required by subsection 16-~~79~~(c)(15)59.

...

(e) Permits.

...

(2) No permit may be issued by the community development director unless the erosion, sedimentation and pollution control plan has been approved and the community development director has affirmatively determined that the plan is in compliance with this chapter, any variances required by subsections 16-~~79(c)(15) and (c)(16)~~59 are obtained, any financial guarantees required in accordance with subsection (c)(6) are provided and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the city are met. If the permit is denied, the reason for denial must be furnished to the applicant.

...

Sec. 16-~~81~~61. Appeals.

The suspension, revocation, modification or grant with condition of a permit by the city upon finding that the holder is not in compliance with the approved erosion and sediment control plan or that the holder is in violation of permit conditions entitles the person submitting the plan or holding the permit to appeal the decision to the zoning board of appeals in accordance with section 16-~~53~~33.

...

Sec. 16-~~82~~62. Enforcement and penalties.

...

(b) Penalties.

...

(3) Bond forfeiture. If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply must be served by the community development director upon that person. The notice must set forth the measures necessary to achieve compliance with the plan and must state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, they will be deemed in violation of this chapter and, in addition to other penalties, will be deemed to have forfeited his performance bond, if required to post one under the provisions of subsection 16-~~80(c)(6)~~60. The community development director may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

...

Sec. 16-~~83~~63. Liability.

Sec. 16-~~84~~64. Education and certification.

Secs. 16-~~85~~65—16-~~95~~75. Reserved.

...

Sec. 16-~~96~~76. Applicability.

The stream buffer regulations of this division apply along all perennial and intermittent streams throughout the city except as expressly exempted or permitted in accordance with section 16-~~99~~79.

...

Sec. 16-~~97~~77. Purpose.

...

Sec. 16-~~98~~78. Minimum stream buffer requirements.

- (a) Stream buffers are established along all perennial and intermittent streams in the city. These required stream buffers begin at the stream bank and extend 75 feet away from the stream. The buffers must remain undisturbed except as otherwise provided in section 16-~~99~~79.

...

- (c) Piping of streams is not allowed in required stream buffers unless a variance is granted in accordance with section 16-~~52~~32.

...

Sec. 16-~~99~~79. Exemptions and special administrative permits.

(a) Exemptions. The stream buffer regulations of this division do not apply to any of the following activities, provided that any activity within a state-mandated stream buffer (~~see section 16-79~~) must meet state requirements. Exemption of these activities does not constitute an exemption from any other activity proposed on a property or a requirement to obtain a building/land development permit.

- (1) Work consisting of the usual and customary repair or maintenance of any lawful use of land that is zoned and approved for such use on or before the effective date of this section. Such usual and customary repair and maintenance activities cannot create any land-disturbance, and must occur within the preexisting disturbed area; ~~z~~
- (2) Construction of decks, porches, or other additions to existing structures, provided that such construction does not require land-disturbance and does not further encroach on the stream buffer; ~~z~~
- (3) Existing development and on-going land-disturbance activities including existing agriculture, silviculture, landscaping, gardening and lawn maintenance, except that new development or land-disturbance activities on such properties is subject to all applicable buffer requirements; ~~z~~
- (4) Public sewer line installation in easements running parallel with the stream where necessary, except that all easements (permanent and construction) and land-disturbance within a state waters' buffer must meet state requirements. This includes such impervious cover as is

necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures. This exemption may not be construed as allowing the construction of roads, bike paths or other transportation routes in such easements, regardless of paving material, except for access for the uses expressly identified in this paragraph.

- (5) Removal of unwanted ground cover (e.g., poison ivy) using hand tools as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed.
- (6) Land development activities within a dedicated transportation right-of-way existing at the time this section takes effect or approved under the terms of this section.
- (7) Within an easement of any utility existing at the time this section takes effect or approved under the terms of this section, land-disturbance activities and such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures.
- (8) Emergency work necessary to preserve life or property. However, when emergency work is performed, the person performing it must report such work to the community development department on the next business day after commencement of the work. Within ten business days thereafter, the person must apply for a permit and perform such work within such time period as may be determined by the community development department to be reasonably necessary to correct any impairment such emergency work may have caused to the water conveyance capacity, stability or water quality of the protection area.
- (9) Forestry and silviculture activities on land that is zoned for forestry, silvicultural or agricultural uses and are not incidental to other land development activity. If such activity results in land-disturbance in the buffer that would otherwise be prohibited, then no other land-disturbing activity other than normal forest management practices will be allowed on the entire property for three years after the end of the activities that intruded on the buffer.
- ~~(9)~~ (10) Activities to restore or enhance stream bank stability, riparian vegetation, water quality or aquatic habitat, so long as native vegetation and bioengineering techniques are used;
- ~~(10)~~ (11) The removal of dead, diseased, insect-infested, or hazardous trees (without any associated land-disturbance), provided the property owner provides sufficient documentation of the condition of the trees before removal, including photographs and a report by a certified arborist; and
- ~~(11)~~ (12) Multi-use trails and related improvements that are part of a city council-approved plan. Unless otherwise approved by the state, such encroachments must be located at least 25 feet from the banks of state waters when, after study of alternative trail alignments, the community development director determines that the alignment is the most desirable alternative and that they are designed to minimize impervious surfaces and incorporate BMPs and other mitigation practices that minimize the impact of encroachments on water quality. Trail improvements that are part of a city council-approved plan are not counted as part of a site's impervious surface area for purposes of site development-related calculations and regulations.
- ~~(12) Exemption of these activities does not constitute an exemption for any other activity proposed on a property.~~

(b) Special administrative permits. The following activities may be approved within the stream buffers required by section 16-98-78 by special administrative permit, [pursuant to the process outlined in Chapter 27, Article V, Division 7](#):

- (1) Stream crossings by utility lines, roads, driveways or similar transportation routes, including trails for nonmotorized transportation;
- (2) Public water supply intake or public wastewater outfall structures;
- (3) Land development necessary to provide access to a property;
- (4) Public access facilities that must be on the water including boat ramps, docks, foot trails leading directly to the stream, fishing platforms and overlooks;
- (5) ~~Activities to restore or enhance stream bank stability, riparian vegetation, water quality or aquatic habitat, so long as native vegetation and bioengineering techniques are used;~~
- ~~(6) Repair and reconstruction of existing structures located more than 50 feet from the stream, provided that the repair or reconstruction does not result in additional impervious cover and that riparian vegetation is restored or replaced in any areas of resulting land disturbance.~~
- (5) Stormwater outfalls to the stream, by pipe or channel, necessary to protect the buffer from erosion caused by high-flow velocities due to steep slopes;
- ~~(6) The removal of dead, diseased, insect infested, or hazardous trees (without any associated land disturbance), provided the property owner provides sufficient documentation of the condition of the trees before removal, including photographs and a report by a certified arborist;~~
- ~~(6) Minor land-disturbing activities totaling no more than 200 square feet in area and located more than 25 feet from the stream, for the construction of decks, porches, or other additions to existing structures, and accessory structures where riparian vegetation is restored or replaced in any disturbed areas; and~~
- [\(7\) Construction and land disturbance that results in the reduction or removal of impervious surfaces.](#)

Comment [SF3]: the Community Council recommended increasing the sq. ft. up to 500. The Planning Commission returned the number to 200 sq. ft.

- ~~(1) Minor land-disturbance activities totaling no more than 200 square feet in area, and as required for the installation and removal of stormwater management structures related to projects occurring outside an adjacent stream buffer; and~~

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~~Multi-use trails and related improvements that are part of a city council approved plan. Unless otherwise approved by the state, such encroachments must be located at least 25 feet from the banks of state waters when, after study of alternative trail alignments, the community development director determines that the alignment is the most desirable alternative and that they are designed to minimize impervious surfaces and incorporate BMPs and other mitigation practices that minimize the impact of encroachments on water quality. Trail improvements that are part of a city council approved plan are not counted as part of a site's impervious surface area for purposes of site development related calculations and regulations.~~

...

Sec. 16-80100. State-mandated stream buffers.

See section 16-~~79~~59.

...

Secs. 16-~~401~~81—16-~~901~~10. Reserved.

...

Sec. 16-~~111~~91. General.

...

(e) Information required with land development permit applications. Except as otherwise expressly exempted, land development permit applications must be accompanied by the following information:

(1) Stormwater management plan in accordance with section 16-~~112~~92;

...

Sec. 16-~~112~~92. Stormwater management plans.

...

(d) Post-development hydrologic analysis. The post-development hydrologic analysis for stormwater runoff rates, volumes, and velocities must include all of the following:

...

(3) Calculations for determining the runoff volumes that need to be addressed for each subbasin for the development project to meet the post-development stormwater management performance criteria in section 16-~~114~~94;

...

(e) Stormwater management system. The description, scaled drawings and design calculations for the proposed post-development stormwater management system must include all of the following:

...

(5) Documentation and supporting calculations to show that the stormwater management system adequately meets the post-development stormwater management performance criteria in section 16-~~114~~94;

...

(j) Maintenance access easements.

...

(2) The access easement to the facility may not have a profile slope steeper than 33 percent and a cross slope of no more than ten percent. The elevation of the maintenance easement around the facility must be established at the top of the dam or wall elevation and be constructed with a cross slope of no more than ten percent to the drainage facility. Fencing that complies with the requirement subsection 16-~~113(g)(2)~~93 must be constructed on the outside edge of the maintenance easement. Gates that comply with the requirements of subsection 16-~~113(g)(2)~~93 must be constructed on each maintenance easement.

...

Sec. 16-~~113~~93. Design.

Sec. 16-~~114~~94. Performance criteria.

Sec. 16-~~115~~95. Inspections and maintenance.

Secs. 16-~~116~~96—16-~~125~~105. Reserved.

...

Sec. 16-~~126~~106. General.

Sec. 16-~~127~~107. Permit procedure.

Sec. 16-~~128~~108. Tree removal.

Sec. 16-~~129~~109. Tree replacement and revegetation.

Sec. 16-~~130~~110. Specimen and special trees.

Sec. 16-~~131~~111. Tree protection measures.

Sec. 16-~~132~~112. Maintenance.

Sec. 16-~~133~~113. Alternative compliance.

Sec. 16-~~134~~114. Enforcement and penalties.

Sec. 16-~~135~~115. Additional information.

Secs. 16-~~136~~116—16-~~145~~125. Reserved.

...

Sec. 16-~~146~~126. Environmental planning criteria.

Secs. 16-~~147~~127—16-~~155~~135. Reserved.

...

Sec. 16-~~136~~~~156~~. General.

...

(f) Violations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) constitutes a violation of this chapter. Any person who violates the flood damage prevention regulations of this division or who fails to comply with any of its requirements will, upon conviction, be subject to a fine and/or imprisonment in accordance with section 1-6 of the municipal code. Each day such violation continues is a separate offense. The city council may take any other lawful action necessary to prevent or remedy any violation. See also the general enforcement provisions of section 16-~~55~~35.

...

Sec. 16-~~157~~137. Definitions.

...

Sec. 16-~~158~~138. Administration.

...

(b) Development permits. A development permit must be obtained before any construction or other development begins within any special flood hazard area. Application for a development permit must be made on forms furnished by the floodplain coordinator and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

(1) Application stage. An application for a development project with any special flood hazard area located on the subject site must include a floodplain management/flood damage prevention plan, which must include all of the following information:

...

b. Building and foundation design detail, including, but not limited to:

...

3. Certification that any proposed nonresidential floodproofed structure meets the criteria in subsection 16-~~160(b)(2)~~140

4. For enclosures below the base flood elevation, location and total net area of foundation openings as required in subsection 16-~~160(a)(5)~~140

...

Sec. 16-~~159~~139. Standards for development.

...

(d) Engineering study requirements for floodplain encroachments. An engineering study is required, as appropriate to the proposed development activities on the site, whenever a development proposes to disturb any land within the future-conditions floodplain, except for a residential single-lot development on streams without established base flood elevations and/or floodways for which the provisions of subsection 16-~~160(d)~~ 140 apply. This study must be prepared by a registered professional engineer and made a part of the application for a permit. This information must be submitted to and approved by the community development director before the approval of any permit that would authorize the disturbance of land located within the future-conditions floodplain. The study must include:

...

Sec. 16-~~160~~140. Flood hazard reduction.

(a) General regulations. The following regulations apply in all special flood hazard areas:

(1) New construction of principal buildings (residential or nonresidential), including manufactured homes, are not allowed within the limits of the future-conditions floodplain, unless all requirements of subsections 16-~~139~~159(c), (d), and (e) are met;

...

(b) Within future-conditions floodplain. In addition to the general regulations of subsection (a), the following additional regulations apply within the future-conditions floodplain:

(1) Residential buildings.

a. New construction. New construction of principal buildings, including manufactured homes is not allowed within the limits of the future-conditions floodplain unless all requirements of subsections 16-~~159~~139(c), (d) and (e) have been met. If all of the requirements of subsections 16-~~159~~139(c), (d) and (e) have been met, all new construction must have the lowest floor, including basement, elevated at least three feet above the base flood elevation or at least one foot above the future-conditions flood elevation, whichever is higher. If solid foundation perimeter walls are used to elevate the structure, openings sufficient to equalize the hydrologic flood forces on exterior walls and to facilitate the unimpeded movements of floodwaters must be provided in accordance with subsection (a)(5).

b. Substantial improvements. Substantial improvement of any principal structure or manufactured home must have the lowest floor, including basement, elevated at least three feet above the base flood elevation or at least one foot above the future-conditions flood elevation, whichever is higher. If solid foundation perimeter walls are used to elevate a structure, openings sufficient to equalize the

hydrologic flood forces on exterior walls and to facilitate the unimpeded movements of floodwaters must be provided in accordance with subsection (a)(5).

(2) Nonresidential buildings.

a. New construction. New construction of principal buildings, including manufactured homes is not allowed within the limits of the future-conditions floodplain unless all requirements of subsections 16-~~159~~139(c), (d) and (e) have been met. New construction that has met all of the requirements of subsections 16-~~159~~139(c), (d) and (e) may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to one foot above the base flood elevation, or at least as high as the future-conditions flood elevation, whichever is higher, with walls substantially impermeable to the passage of water and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect must certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and must provide such certification to the community development director.

...

(5) Manufactured homes.

a. New manufactured homes are not allowed to be placed within the limits of the future-conditions floodplain unless all requirements of subsections 16-~~153~~139(c), (d) and (e) have been met.

...

(f) Subdivisions.

...

(3) All subdivision plans must provide the elevations of proposed structures in accordance with subsection 16-~~135~~138(b);

...

Sec. 16-~~161~~141. Variances.

Secs. 16-~~162~~142—16-~~175~~155. Reserved.

...

Sec. 16-~~176~~156. Policies and purposes.

(a) Policies.

...

(b) Purposes. The city's subdivision regulations (~~article III, divisions 1 through 6~~) are adopted for the following purposes:

...

Sec. 16-~~177~~157. Applicability.

...

~~Sec. 16-178. Exemptions.~~

- ~~(a) The subdivision regulations of article III, divisions 1, 2, 3, 4, 5, 6, do not apply to a lot or parcel of land established by deed or plat recorded among the land records of the county prior to the date that DeKalb County subdivision regulations first became effective or to the division or sale of land by judicial decree.~~
- ~~(b) For purposes of this division, the division of land into no more than two lots is considered a subdivision but exempt from the plat review procedures, provided that:~~
 - ~~(1) Each proposed lot complies with the requirements of the city zoning ordinance and all conditions of zoning;~~
 - ~~(2) Each proposed lot fronts an existing paved private or public street, which contains the necessary right-of-way width required by this chapter;~~
 - ~~(3) All such plats are drawn to final plat standards in this chapter; and~~
 - ~~(4)(1) The lot being divided is not a lot which resulted from a subdivision of property that was exempt from these regulations in the immediately preceding 24 months.~~

Sec. 16-~~179~~158. Administration and enforcement.

...

Secs. 16-~~180~~159—16-~~170~~190. Reserved.

...

Sec. 16-~~191~~171. Applicability.

Proposed subdivisions, including major changes to revised final plats, are eligible to be reviewed under the minor subdivision procedures of this division only when all of the criteria are met:

- (1) The subdivision will result in the creation of no more than three lots;
- (2) The subdivision does not require the extension of utilities (other than individual service lines) or other municipal facilities;
- (3) No right-of-way dedication, no new streets, street improvements, or other required public improvements are required, as specified in Article IV of this Chapter; ~~and~~
- ~~(5) No new streets or street improvements are required.~~

Sec. 16-~~172~~192. ~~One-step~~Minor Subdivision procedure.

Subdivisions eligible for processing as minor subdivisions require only review, approval, and recording of a final plat in accordance with ~~section 16-207~~ [Article III, Division 4 of this Chapter](#).

~~(Ord. No. 2013-10-14, 1(Exh. A § 16-12.20), 10-14-2013)~~

Sec. 16-~~193~~173. Public notice.

- (a) The applicant must place a public notification sign on the site of the proposed minor subdivision. The sign must remain in place for at least ~~thirty~~ten days before the date of approval of the minor subdivision plat. The community development director must verify that the sign has been posted. If applicant fails to properly post the required sign, the minor subdivision plat may not be approved until the applicant has properly posted the required notification sign.
- (b) Once the application has been submitted, the applicant and members of the public may submit written comments to the community development director in support of or in opposition to the minor subdivision plat.

Sec. 16-~~194~~174. Compliance with ~~subdivision~~ design and improvement standards.

Subdivisions eligible for processing as minor subdivisions are subject to compliance with all applicable land development regulations, including the design and improvement standards contained in ~~a~~ [Article IV III, division 4 and 5 of this Chapter](#).

~~(Ord. No. 2013-10-14, 1(Exh. A § 16-12.40), 10-14-2013)~~

...

Sec. 16-~~195~~175. Successive applications.

Secs. 16-~~196~~176—16-~~205~~185. Reserved.

...

Sec. 16-186. Applicability.

Proposed subdivisions not eligible to be reviewed under the minor subdivision procedures of this article are required to be reviewed as a Major Subdivision and subsequent final plat, including major changes to revised final plats.

Sec. 16-~~206~~187. ~~Sketch plat/p~~Preliminary plat Procedures.

- (a) Preapplication conference. Before filing the ~~sketch~~ preliminary plat for a subdivision for review and approval, the applicant must meet with the community development director or his designee to present a generalized concept plan for the proposed project and to discuss the procedure for approval of a subdivision plat and the requirements as to general layout of streets, reservations of open space, street improvements, drainage, sewerage, fire protection, and similar matters, as well as the availability of existing infrastructure and services. ~~The community development director may advise the applicant, when appropriate, to discuss the~~

Comment [SF4]: NOTE: If the City Council supports the recommendation of the Planning Commission to modify the subdivision plat approval process to require approval by the Planning Commission, staff will modify the necessary sections of the code and bring those changes back to City Council for approval.

~~proposed subdivision with those officials who must eventually approve those aspects of the subdivision plat coming within their jurisdiction.~~ This conference will allow early evaluation of the applicant's intentions and coordination with the comprehensive plan and the zoning ordinance. This conference will also allow city officials to discuss with the applicant the necessary regulations that will properly accomplish the project. The community development director may 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.

...

~~(32) Corner lots. Show that corner lots must have an extra width of not less than 15 feet more than required for interior lots for the zoning district within which they are located;~~

...

(f) Application submittal.

- (1) ~~The community development director must give written notice to the applicant within seven days of the date the sketch plat and application are submitted whether the sketch plat application is accepted for review and the official date of acceptance.~~ An application will be considered complete and ready for processing only when it fully complies with the requirements of ~~subsections (b) through (e)~~ this article

...

(g) Referral of sketch preliminary plat for review.

- (1) Upon official acceptance of the application and the sketch preliminary plat, ~~the community development director must provide copies of the sketch plat to~~ the community development department, public works, ~~police department,~~ and any other city or county department the community development director determines should be consulted for the particularities of the proposed subdivision, shall review the preliminary plat. As part of its review, ~~Each~~ such department and receiving entity must ~~review the sketch plat and must~~ make comments and recommendations regarding any required changes necessary to comply with all applicable regulations. ~~Each department must return its annotated copy of the sketch plat and written comments and recommendations to the community development director within 14 days from the date of receipt.~~

...

- ~~(2) In the event that any revisions to the sketch plat are required, the applicant may submit a revised sketch plat to the community development director and, if the applicant submits a revised sketch plat, the community development director has 14 days to review the revisions and determine whether such revisions are sufficient for approval. If the revisions are~~

~~insufficient, the community development director must notify the applicant that further revisions to the sketch plat are required and for each set of revisions submitted by the applicant the community development director has 14 days for review as described in this section.~~

- ~~(3)~~ (2) If a ~~sketch~~preliminary plat is not approved within 180 days of the official acceptance of the application, the application and ~~sketch~~preliminary plat is considered withdrawn without further action by the city. The community development director must approve the ~~sketch~~preliminary plat if the application and ~~sketch~~preliminary plat conform to all requested revisions, the requirements of this Code and state law and must deny the ~~sketch~~preliminary plat if the application and ~~sketch~~preliminary plat do not conform to all requested revisions, the requirements of this Code or state law.

~~(h)~~ Sec. 188 **Public notice.**

- (1) The applicant must place a public notification sign on the site of the proposed subdivision ~~within seven days of the date that the sketch preliminary plan is determined to be complete and accepted for processing.~~ The sign must remain in place of at least 30 days. The community development director must verify that the sign has been posted. If applicant fails to properly post the required sign, the ~~sketch~~preliminary plat may not be approved until the applicant has properly posted the required notification sign.
- (2) Once the application has been submitted, the applicant and members of the public may submit written comments to the community development director in support of or in opposition to the ~~sketch~~preliminary plat.
- (3) Following public notice period and determination that the application complies with all city codes, ~~the~~ community development director ~~may is authorized to~~ approve or disapprove the proposed ~~sketch~~preliminary plat in accordance with the approval criteria of ~~subsection~~ this article.

~~(4) Any person or entity (i.e., an owner, applicant, adjoining neighbor or a neighbor whose property line is within 1,500 feet of the nearest property line of the proposed subdivision) aggrieved by a denial or approval of a sketch plat, may appeal by filing a petition for writ of certiorari to the county superior court in accordance with state law.~~

...

Sec. 16-189. Compliance with design and improvement standards and ~~(i)~~ a **Approval criteria.**

(a) Subdivisions eligible for processing as major subdivisions are subject to compliance with all applicable land development regulations, including the design and improvement standards contained in Article IV of this Chapter.

(b) Approval criteria.

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(1) The community development director may not approve a ~~sketch~~-preliminary plat unless it is found that:

...

j. All requirements of ~~subsection (c)~~ the preliminary plat procedures have been fulfilled.

...

(3) After review of the ~~sketch~~-preliminary plat and related comments, and where, in the judgment of the community development director, the ~~sketch~~-preliminary plat conforms to all of the requirements of this chapter and the city zoning ordinance, all conditions of zoning, and any other applicable city regulations or law, ~~the community development director must approve the sketch plat~~ the preliminary plat shall stand approved. The following wording for approval must be shown on the ~~sketch~~-preliminary plat:

...

~~(4) A sketch plat becomes and will be known as a "preliminary plat" upon its approval by the community development director.~~

~~(j)~~ Effect of approval. The preliminary plat does not constitute nor provide assurance of approval of the final plat, but is to be used as the development design for the subdivision and for the acquisition of a development permit as provided for in the city zoning ordinance. The preliminary plat must be submitted to the community development department in a digital format acceptable to the city, prior to or simultaneous with an application for a development permit.

~~(k)~~ Lapse of approval. The preliminary plat expires 24 months from the date of its approval. If more than 50 percent of linear feet of total road in the entire development shown on the preliminary plat is complete at the expiration of 24 months from the date of the approval of the preliminary plat, then the community development director is authorized to grant a one-time, one-year extension of the approval of the preliminary plat. An expired preliminary plat is null and void and is of no effect. An expired preliminary plat may not be renewed.

~~(l)~~ Preliminary plat amendments. If the approved ~~sketch~~-preliminary plat, ~~which becomes the preliminary plat,~~ is amended or altered by the applicant, without an approved variance, after approval as a ~~sketch~~-preliminary plat, then the applicant is required to re-submit the revised preliminary plat ~~as a new sketch plat~~ and begin anew the application process contained in this division.

(4) Sec. 16-190 Appeals.

The decision of the community development director to approve or disapprove the preliminary plat may be appealed to city council by request in writing to the community development director within 30 days of the community development director's decision. If no appeal is made within the 30-day period, the decision of the community development director is final. The 30 day appeal deadline

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Comment [SF5]: Modify this Section and following if approval changes from staff to the Planning Commission.

may be waived by the city council if the appellant can show evidence that the appeal was filed within 30 days of their actual or constructive notice of the decision. If an appeal is made to the city council, the city council must set a hearing date for the appeal within 30 days of the appeal being requested, and the decision of the city council is final. The city council's decision may be appealed only by a petition for writ of certiorari to the county superior court in accordance with state law. Any person or entity (i.e.: an owner, applicant, adjoining neighbor, or a neighbor whose property is within 1,500 feet of the nearest property line of the proposed subdivision) aggrieved by a denial or approval of a preliminary plat, may appeal by filing a petition for writ of certiorari to the county superior court in accordance with state law. ~~Any person or entity (i.e., an owner, applicant, adjoining neighbor or a neighbor whose property line is within 1,500 feet of the nearest property line of the proposed subdivision) aggrieved by a denial or approval of a sketch plat, may appeal by filing a petition for writ of certiorari to the county superior court in accordance with state law.~~

...

Secs. 16-~~191208~~—16-~~200220~~. Reserved.

...

~~Sec. 16-207. Final plats.~~DIVISION 4. – FINAL PLATS.

Sec. 16-201. Applicability

Minor subdivisions are required to be reviewed under the provisions of this division. Proposed major subdivisions are required to be reviewed under the provisions of this division after completion of all required improvements in accordance with the approved preliminary plat.

Sec. 16-202. Final plat procedure.

- (a) Preparation. The applicant must have a registered surveyor prepare the final plat of the subdivision. An application for final plat approval may be made when a preliminary plat of the proposed subdivision has been approved and construction of all required infrastructure is complete to ascertain its location as built, or as required by this chapter.

...

(c) Plat review.

(1) Upon receipt of the final plat, the community development director must forward copies of the final plat to the following city departments for certification that ~~required~~the improvements are complete and in conformity with the Code of Ordinances~~preliminary plat~~:

- a. Appropriate official of the department of community development;
b. City geographic information system department;

~~c. Police and fire department;~~

~~cd.~~ Public works department;

~~de.~~ Any other department or entity the community development director deems appropriate.

(2) Any department to which the final plat is submitted must note ~~on the plat~~ whether the development meets or fails to meet the requirements of this Code and of that department, specifically, whether all improvements were properly completed and whether the improvements are in conformity with the preliminary plat, when required by the procedures of this chapter. If the improvements are incomplete or if the improvements are not in conformity with the preliminary plat, the department must note ~~on the plat~~ the manner in which the plat fails to meet these requirements. ~~Each department must return its copy of the final plat with notations made within 21 calendar days of receipt thereof.~~

(3) Upon receipt of the annotated copies from all of the departments which received the final plat for notation, the community development director must independently review the final plat and determine whether it complies with all city zoning, environmental, and subdivision ordinances and regulations and all applicable state and federal laws. The community development director must certify in writing on the final plat his finding of whether the final plat complies with all city zoning, environmental, and subdivision ordinances and regulations and all applicable state and federal laws.

(4) The final plat must conform to the approved preliminary plat on file with the city, when one is required by the procedures of this chapter, and must comply with the city zoning and land development ordinances, including any conditions of zoning.

(5) The final plat may not be forwarded to the city manager until such time as the community development director certifies that the final plat conforms to the approved preliminary plat, if required by the procedures of this chapter, and complies with all city zoning, environmental, and subdivision ordinances and regulations and all applicable state and federal laws.

(d) City manager approval.

(1) ~~No later than 14 calendar days after receiving the annotated copies from all of the departments which received the final plat for notation, t~~The community development director must transmit the final plat, ~~containing the certifications required in subsection (c)(1)~~ and any necessary supplemental materials, to the city manager for approval.

(2) The city manager as the designee for the governing authority of the city must approve or disapprove the final plat. ~~within ten days of receiving the final plat, as indicated by a receipt stamp on the final plat. If the final plat is not approved or denied within ten days of receipt, the final plat is deemed to be automatically approved and the city manager must acknowledge and certify that automatic approval.~~ If the final plat is denied, the city manager must provide the reasons for denial in writing and such writing must be given to the applicant with the denied plat. If the final plat is approved, the city manager must place the following wording on the original as follows:

"This plat has been submitted to and accepted by the City Manager of the City of Dunwoody, Georgia, and has been approved as required by state law and city codes as meeting all conditions precedent to recording in the county superior court.

Dated this _____ day of _____, _____.

By: _____/_____/_____

[City manager as designee of the governing authority]"

(3) Final plat acknowledgement and approval by the city manager constitute the approval, if any, required in order to file subdivision plats with the clerk of the county superior court pursuant to O.C.G.A. § 15-6-67(d).

(e) Appeals. The decision of the city manager to approve or disapprove the final plat may be appealed to the city council by request in writing to the city manager within 30 days of the city manager's decision. Decisions will be posted on the City's web page and in a newspaper of general circulation within the City, and notices mailed to adjacent property owners. The 30 day appeal period shall start to run upon the earlier of said postings. If no appeal is made within the 30-day period, the decision of the city manager is final. The 30 day appeal deadline may be waived by the city council if the appellant can show evidence that the appeal was filed within 30 days of their actual or constructive notice of the decision. If an appeal is made to the city council, the city council must set a hearing date for the appeal within 30 days of the appeal being requested, and the decision of the city council is final. The city council decision may be appealed only by a petition for writ of certiorari to the county superior court in accordance with state law. Any person or entity (i.e.: an owner, applicant, adjoining neighbor, or a neighbor whose property is within 1,500 feet of the nearest property line of the proposed subdivision) aggrieved by a denial or approval of a preliminary plat, may appeal by filing a petition for writ of certiorari to the county superior court in accordance with state law.

Comment [SF6]: Requested by the Planning Commission.

(f) Recording. The approved final plat must be recorded with the clerk of the county superior court by the applicant ~~community development director~~ and returned to the ~~applicant~~ community development director.

...

than the minimum restrictions required by the city zoning ordinance.

(o) Disclosure statement.

...

(4) If the applicant intends to make no representations or commitments to potential purchasers concerning each of the representations set forth in this subsections ~~(o)(2) and (o)(3)~~, the applicant must note the same in the disclosure statement filed with the community development director which statement must be made available by the community development director to the public.

...

(q)Sec. 16-203. Revised final plat. ~~(plat amendments).~~

- (1) The original recorded plat must be used for all revisions.

~~a. When it becomes necessary to revise an original recorded final plat due to some error, required adjustment or desired adjustment, the applicant must confer with the community development director to determine if the revision is a minor or major revision. The applicant's surveyor must make the necessary corrections on the original final plat or prepare a new tracing of that portion of the subdivision involved. The subdivision name, date and book and page number of the original recording must be noted on the new plat. If the original final plat is not available, then any proposed revision to the final plat must be considered a major change.~~

~~b. A minor change is one that corrects a drafting or scrivener's error or is otherwise administrative in nature and does not affect how the subdivision will be developed or built. A major change is any other change, including changes that alter how the subdivision will be developed or built, such as, but not limited to, changing or moving lot lines, increasing or decreasing the number of lots, changing the location of any public facilities or utilities, and revising protective covenants applying to the property.~~

Comment [SF7]: EXISTING LANGUAGE is in a and b below. Staff is recommending that 'a' and 'b' be replaced with wording as below.

a. *Major.* Changes to an approved or recorded subdivision plat that would significantly alter the layout of any public street, alley, or road shown on such plat, or area reserved thereon for public use, or if it would affect any map, plan, or plat legally recorded before adoption of any subdivision regulations, such amendment shall be approved by the same procedure, rules, and regulations required for a new subdivision.

b. *Minor.* Changes to an approved or recorded subdivision plat, including but not limited to, adjusting lots and lot lines, utility easements, streets, shifting of open space and common areas, and other changes considered by the Director of Community Development to be minor in nature and that do not create any additional lots may be approved administratively by staff as a Final Plat, so long as open space and amenities are not reduced or made less effective, and the overall result is not a substantially new design. The submission of official plats for signing, recording, and for the department record shall be followed as required in this ordinance.

~~c. If the community development director determines the change is minor, then the community development director will obtain the city manager's acknowledgment, approval, and acceptance of the revised final plat, and must file such revised plat with the clerk of the county superior court.~~

cd. If the community development director determines the change is major, the revised plat must proceed through the approval process for ~~final plats~~major or minor subdivisions described in this Code, depending on the applicability provisions.

...

~~e. The basis for the community development director's characterization of the change as either major or minor must be recorded on the revised plat.~~

- (2) If the original final plat is not available, the applicant must prepare a new Mylar or other durable, stable, and reproducible drafting medium approved by the department of community development, in accordance with this subsection ~~(e)~~.

...

Secs. 16-~~229~~204—16-~~240~~215. Reserved.

...

ARTICLE IV. DESIGN AND IMPROVEMENT STANDARDS

DIVISION 1. General Provisions

Sec. 16-~~26~~216. Purpose.

...

Sec. 16-~~27~~217. Applicability.

Applicants for any building permit or development permit must construct or otherwise provide for public right-of-way improvements as set forth in this section article 16-28 if issuance of the permit would result in any of the following:

- (1) Creation of a new access point to a public street;
- (2) Addition of eight or more motor vehicle parking stalls on the subject lot;
- (3) Structural improvements to existing buildings that exceed 25 percent of the county tax assessor's 100 percent assessed value of the existing improvements on the subject property, based on the value of all structural improvements over the previous 12-month period;
- (4) New buildings or building additions that result in an increase in existing building floor area on the subject property by more than ten percent, based on the total floor area added over the previous 12-month period; or
- (5) A change in use or method of operation that results in a 20 percent or greater increase in traffic generation potential, based on average daily and peak-hour traffic generation data published by the Institute of Transportation Engineers (ITE).

Sec. 16-218. Exemptions.

This article shall not apply to the following:

- (1) Additions and accessory structures to existing single-family residential dwellings;
- (2) Minor subdivisions in single-family residential districts where no additional lots are created; and ~~and where there is no proposed construction beyond additions and accessory structures (i.e.: lot lines are adjusted)~~
- (3) New and replacement homes on existing lots where a single-family residential dwelling will be demolished and replaced. ~~except those that exist along an arterial, collector, or other as expressly stated in a city-adopted plan.~~

Comment [SF8]: Recommended for deletion by Community Council, Planning Commission and staff.

Comment [SF9]: Recommended for deletion by the Community Council and Planning Commission.

Sec. 16-~~28~~219. Requirements.

The community development director is authorized to determine, in consultation with other affected city departments and service providers, whether one or more of the following public right-of-way improvements abutting the subject property are deficient and must be brought up to current standards to mitigate the impacts of a permitted action set forth in ~~section 16-27~~this article. Construction or provision of those improvements in the manner specified by the community development director must be a condition of granting the applicable permit:

...

Sec. 16-~~29~~220. Construction.

~~Unless~~At the discretion of the community development director, a deferral and/or fee in lieu of improvements ~~is~~may be granted in accordance with ~~section 16-30~~this article, ~~otherwise,~~ applicants for a building permits or development permits must construct required improvements in conformance with all applicable city requirements.

...

Sec. 16-~~221~~30. Deferral and fee in lieu of improvements.

...

Sec. 16-~~31~~222. Appeals.

Decisions by the community development director made pursuant to this division may be appealed to the city council by filing a request with the community development director within 30 days of the community development director's decision. Decisions will be posted on the City's web page and in a newspaper of general circulation within the City. The 30 day appeal period shall start to run upon the earlier of said postings. Appeal shall be in accordance with procedures and conditions in Chapter 16, Section 16-33. If no appeal is made within the 30-day period, the decision of the community development director is final. If an appeal is made to the ~~city council~~ZBA, the ~~city council~~ZBA must set a hearing date for the appeal within 30 days of the appeal being requested and the decision of the ~~city~~

Comment [SF10]: Recommended by the Planning Commission.

~~council~~ZBA is final. The ~~city-council~~ZBA decision may be appealed only by a petition for writ of certiorari to the county superior court in accordance with state law.

...

Secs. 16-~~32~~23—16-~~45~~235. Reserved.

DIVISION ~~2~~4. SUBDIVISION DESIGN

...

Sec. 16-~~236~~221. General.

...

(a) Adequate public facilities. The applicant must submit sufficient information and data with the application on the proposed subdivision to demonstrate compliance with the following:

(7) Common areas. Where present, common areas, such as stormwater detention and open spaces, shall be dedicated to a required home owners association for maintenance and ownership responsibilities. Common areas are not subject to the requirements for lots.

...

Sec. 16-~~222~~237. Streets.

~~(a) Applicability. The provisions of this section apply to streets in subdivisions and in other projects requiring a development or land disturbance permit from the city.~~

...

~~(e)~~f) Intersections.

- (1) Spacing. Street intersections with ~~centerline offsets of~~nearest edge of pavement offsets less than 125 feet are prohibited.

...

~~(g)~~h) Private streets.

...

(14) At the end of the 12-month maintenance period provided for in this subsection ~~16-244(f)~~, a developer must provide a maintenance bond or letter of credit, renewable annually, to cover the cost of maintenance and repair for any private streets within a subdivision. The bond must be for an amount equal to 50 percent of the current estimate of resurfacing costs, as determined by the community

development director or his designee. The developer may avoid securing a maintenance bond if they submit proof to the department of community development that 100 percent of the then-current estimate of resurfacing costs, as determined by the community development director, has been deposited in an interest-bearing account on behalf of the property owners' association. If the developer chooses this alternative, the declarations of covenants and articles of association must specifically require the property owners' association to continuously maintain 100 percent of the then-current estimate of resurfacing costs of the private streets in this maintenance fund.

(15) The property owners' association must be empowered to levy assessments against owners within the development for the payment of expenditures made by the association for maintenance of the private streets and other items set forth in [this subsection](#) ~~(h)(11)~~. At least 15 percent of all fees or assessments paid must be set aside in the maintenance fund. Any unpaid assessments will constitute a lien in favor of the property owners' association on the lot, building or unit of the owner.

...

(j) Street cross-sections. Except as expressly stated in a city-adopted plan (e.g., Dunwoody Village) or within the city's standards and specifications, all streets must be designed and constructed in ~~accordance~~ [substantial compliance](#) with the regulations of the ~~following~~ [table below](#). [Modifications of this table may be approved by the community development director based on contextual constraints.](#)

...

(k) Right-of-way and street improvements.

(1) All proposed new streets must be designed and built in accordance with the standards listed in [this article](#) ~~subsection (j)~~ and the city's standards and specifications.

...

b. Install all required sidewalks, street trees, streetlights, and place utilities in accordance with the standards in [this article](#) ~~subsection (j)~~; and

c. Provide a minimum of 50 percent of the roadway pavement required in [this article](#) ~~subsection (j)~~ and install it to the right-of-way centerline.

...

Sec. 16-~~223~~[238](#). Street trees.

Sec. 16-~~224~~[239](#). Easements.

Sec. 16-~~225~~[240](#). Blocks.

Sec. 16-~~226~~[241](#). Lots.

- (a) Dimension, size, and shape orientation. The lot ~~size~~area, frontage, width, depth, shape and orientation ~~and the minimum building setback, side yard, and rear yard lines~~ in subdivisions must be in accordance with requirements of the city zoning and land development ordinances.
- (b) Frontage. Each subdivision lot must front upon an existing paved private or public street.
- (c) Through lots and reverse frontage lots. Through lots and reverse frontage lots are discouraged in subdivisions except along limited access highways, such as interstate highways. Where it is necessary to provide separation of residential development from arterials or to overcome specific disadvantages of topography and orientation, lots fronting such features may be platted in greater depth so that dwellings may be set back an additional distance from the arterial or other feature. Such lots may obtain vehicular access from a rear alley. Lots having access from an alley do not constitute prohibited through lots. A landscape reservation of at least ten feet in width, and across which there is no right of vehicular access, may be required along the lot lines of lots abutting any disadvantageous feature, including a busy roadway, or land use where access should be restricted in the public interest.
- (d) Side lot lines. Side lot lines in subdivisions must be substantially at right angles or radial to street lines as they extend from the front lot line to the front building line.
- (e) Corner lots. Corner lots must have an extra width of not less than 15 feet more for each street frontage than required for interior lots for the zoning district within which they are located.
- ~~(d)~~ (f) Buildable area. Lot shall contain adequate buildable area that is suitable for the intended use.
- (g) Spite strips. The creation of spite strips is prohibited.
- (h) Flag lots. The creation of flag lots is prohibited.

...

Sec. 16-~~227~~242. Common open space.

Sec. 16-~~228~~243. Public and civic sites.

Secs. 16-~~229~~244—16-~~240~~255. Reserved.

...

DIVISION ~~53~~. ~~SUBDIVISION~~ IMPROVEMENTS

Sec. 16-~~241~~256. ~~General~~Utilities.

~~(a) Applicability. This division applies to required improvements for or in subdivisions~~

~~(a)~~ (b) Location of required utilities in public rights-of-way. All required utilities within city rights-of-way must be located as shown in the city's standards and specifications and as stated in this division.

...

Sec. 16-~~242~~257. Water.

Sec. 16-~~243~~258. Sewer.

Sec. 16-~~244~~259. Streets.

...

(h) Sidewalks and bicycle lanes.

~~(1) Sidewalks are required on all sides of all new street frontages on all new and on the subject side of all improved local residential streets in all subdivisions and along the street frontage of all new and improved nonresidential developments and as set forth in subsection 16-223(j), unless the community development director determines that a deferral or fee in lieu is approved in accordance with Section 16-221.~~

- ~~a. Sidewalks are infeasible and their absence in the particular circumstances will not be detrimental to the public health, safety or welfare of the public or injurious to the property or public improvements;~~
- ~~b. The requested sidewalk exception does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other similarly situated properties; and~~
- ~~The requested exception is consistent with all relevant purpose and intent statements of this chapter.~~

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(4) A grassed, planted or landscaped strip, as set forth in ~~subsection 16-222~~(this article), must separate all sidewalks from adjacent curbs, bridges excepted. The community development director may

...

(7) All sidewalk construction and repairs must provide for wheelchair ramps to and from sidewalks at the intersection of each street corner and crosswalk. Access ramps must be constructed pursuant to standards approved by the public works department.

- (a) All driveways with sidewalks and sidewalk crosswalk installations are required to be constructed in accordance with the Accessible Sidewalk standards published by the U.S. Department of Transportation, Federal Highway Administration, in FHWA-SA-03-01 as amended.

Comment [SF11]: Recommended by
Public Works and Community
Development Staff.

...

(9) Bicycle lanes are required on new or substantially improved arterials or collector streets where the posted speed limit is 35 miles per hour or greater. Bicycle lanes may also be required by the community development director where necessary to provide connections to bikeways identified on the comprehensive transportation plan or other adopted plan. Bicycle lanes must be constructed as follows:

a. Bicycle lanes, where required, must be at least four feet wide and placed in the outside lane of a roadway, adjacent to the curb and gutter or shoulder. Curb and gutter areas may not be counted in calculating the width of a bicycle lane. When on-street parking is permitted, bicycle lanes must be at least four feet in width and located between the parking lane and the outer travel lane. Bicycle pavement widths are in addition to the minimum pavement width required for the road. ~~See also subsection 16-222(j).~~

Comment [SF12]: the Planning Commission recommended that these two paragraphs be retained, the Community Council recommended deletion.

...

Sec. 16-~~245~~260. Private sewage disposal.

Secs. 16-~~246~~261—16-~~255~~270. Reserved.

...

ARTICLE V. VARIANCES

DIVISION ~~61. SUBDIVISION~~ VARIANCES

Sec. 16-~~256~~271. Authority.

(a) The zoning board of appeals is authorized to hear and decide applications for variances from the strict application of ~~the subdivision design standards of article III, division 4~~ Articles III or IV, where strict application of any of the regulations of this Articles III or IV ~~regulations of article III, division 4~~ would result in exceptional and undue hardship to the owner of such property. These regulations provide the minimum necessary requirements ~~for subdivisions in the city~~; thus, variances from the requirements of ~~article III, division 4~~ Articles III or IV may be authorized only upon the zoning board of appeals making all of the following findings:

(1) By reason of the shape or topographical conditions of a parcel of property which were not created by the owner or applicant, the strict application of ~~article III, division 4~~ Articles III or IV would deprive the property owner of rights and privileges enjoyed by other similarly situated property owners in the same zoning district;

...

(b) No variance may be granted by the zoning board of appeals to:

...

(3) Vary the requirements set forth section 16-~~226~~241.

...

Secs. 16-~~257~~272—16-~~265~~280. Reserved.

...

ARTICLE ~~IV~~^{VI}. ~~TERMINOLOGY~~ MEASUREMENTS, LANGUAGE, AND DEFINITIONS**Sec. 16-~~266~~²⁸¹. Meanings and intent.**

The language of these land development regulations must be read literally. Regulations are no more or less strict than stated. Words and terms expressly defined in these land development regulations ~~(See, for example, article IV, division 2)~~ have the specific meanings assigned, unless the context clearly indicates another meaning. Words that are not expressly defined in these land development regulations have the meaning given in the latest edition of Merriam-Webster's Unabridged Dictionary.

...

Sec. 16-~~267~~²⁸². Tenses and usage.**Sec. 16-~~268~~²⁸³. Conjunctions.****Sec. 16-~~269~~²⁸⁴. Computation of time.****Sec. 16-~~270~~²⁸⁵. Headings and illustrations.****Sec. 16-~~271~~²⁸⁶. References to other regulations.****Sec. 16-~~272~~²⁸⁷. Current versions and citations.****Sec. 16-~~273~~²⁸⁸. Lists and examples.****Sec. 16-~~274~~²⁸⁹. Delegation of authority.****Sec. 16-~~275~~²⁹⁰. Public officials and agencies.****Secs. 16-~~276~~²⁹¹—16-~~285~~³⁰⁰. Reserved.**

...

DIVISION 2. DEFINITIONS**Sec. 16-~~286~~³⁰¹. Terms defined.**

...

(f) Terms beginning with "F."

...

(l) Terms beginning with "L."

...

Land-disturbing activity means any activity that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting and filling of land, but not including agricultural practices as described in subsection 16-~~78(5)-58~~.

Lot, corner, means a lot abutting upon two or more streets at their intersection or upon two parts of the same street forming an interior angle of less than 135 degrees.

Lot, flag means a lot that sits behind lots which face directly onto a street with access provided to the bulk of the lot by means of a narrow corridor, whether providing the minimum amount of street frontage and width or not.

(s) Terms beginning with "S."

...

Special flood hazard area (SFHA) means an area in the floodplain subject to a one-percent or greater chance of flooding in any given year. This includes areas shown on an FHBM or FIRM as zone A, AO, A1-A30, AE, A99, AE, AO, AH or AR; all floodplain and floodprone areas at or below the future-conditions flood elevation; and all other floodprone areas as referenced in ~~subsection 16-156(g)~~ section 16-136. All streams with a drainage area of 100 acres or greater must have the special flood hazard area delineated.

Special tree means any tree that qualifies for special consideration for preservation due to its size, type, and condition ~~(See [section] 16-130)~~.

Specimen tree means any tree that has been determined by the city arborist to be of high value because of its type, size, age, and/or of historical significance, or other professional criteria, and has been so designated in administrative standards established by the city. This is usually a plant with desirable form, foliage, fruit or flower that can be emphasized although isolated ~~(See [section] 16-130)~~.

...

Spite strip means a piece of land used to separate a street or road rights-of-way from adjoining property and whose primary purpose is to preclude access to such rights-of-way.

...

(w) Terms beginning with "W."

...

Width, lot means the distance between the side lot lines, measured along a line drawn parallel to the front lot line at a distance from the front lot line equal to the minimum street yard setback. For lots with curvilinear frontage and setback lines (e.g.: cul-de-sac lots), the width shall be measured as a straight line through the points that intersect the side lot lines at a distance from the front lot line equal to the minimum street yard setback.

CITY OF DUNWOODY
December 09, 2014
PLANNING COMMISSION MINUTES

The Planning Commission of the City of Dunwoody held a Meeting on December 09, 2014 at 7:00 PM. The meeting was held in the City of Dunwoody City Hall, 41 Perimeter Center East, Dunwoody, Georgia 30346. Present for the meeting were the following:

Voting Members: Bob Dallas, Chair
 Bill Grossman, Vice Chair
 Kirk Anders, Commission Member
 Renate Herod, Commission Member
 Paul Player, Commission Member
 Heyward Wescott, Commission Member

Also Present: Steve Foote, Community Development Director
 Rebecca Keefer, City Planner
 Andrew Russell, Planning Coordinator

A. CALL TO ORDER

B. ROLL CALL

All members were present. Kirk Anders arrived after Roll Call. Paul Player departed the meeting during the discussion of item F4.

C. MINUTES

1. Approval of Meeting Minutes from the August 12, 2014 Planning Commission Meeting.

Heyward Wescott motioned to approve. Bill Grossman seconded.

The motion was voted and passed (5 - 0).

D. ORGANIZATIONAL AND PROCEDURAL ITEMS

E. UNFINISHED BUSINESS

F. NEW BUSINESS

1. **RZ 15-011:** Pursuant to the City of Dunwoody Zoning Ordinance, applicant, HDP Acquisitions, LLC c/o Hotel Development Partners, LLC, seeks permission to rezone property currently zoned Commercial-Residential Mixed-Use (CR-1) to Commercial-Residential Mixed-Use (CR-1) to allow for a change of previous conditions. The subject property is located at 4681 Ashford Dunwoody Road, Dunwoody, GA 30338. The tax parcel is 18 350 01 015.

Bob Dallas opened the discussion.

Rebecca Keefer presented on behalf of staff.

Steve Smith, on behalf of applicant, Hotel Development Partners (HDP),

presented. He noted changes in elevation as necessitating the change in hotel height from 4 to 7 stories.

Bob Kinsey, representative of Spruill Center for the Arts, spoke in support of applicant's proposed plan.

Bob Dallas informed the public that he served as President of Spruill Center for the Arts over a decade ago and is no longer directly involved there.

The Commission discussed the request and asked questions of staff and the applicant.

Heyward Wescott motioned to approve with staff's recommendations. Bill Grossman seconded.

The motion was voted and passed (6-0).

2. **SLUP 15-011:** Pursuant to the City of Dunwoody Zoning Ordinance, applicant, HDP Acquisitions, LLC c/o Hotel Development Partners, LLC, seeks a Special Land Use Permit to increase the previously approved maximum allowable building height from four (4) stories to seven (7) stories in a Commercial-Residential Mixed-Use (CR-1) District, for the subject property located at 4681 Ashford Dunwoody Road, Dunwoody, GA 30338. The tax parcel is 18 350 01 015.

Bob Dallas opened the discussion.

Rebecca Keefer presented on behalf of staff.

The Commission discussed the application.

Heyward Wescott motioned to approve the SLUP as stated. Kirk Anders seconded. Heyward Wescott motioned to amend the previous motion to include the recommendation to waive the twenty-four month provision of Sec. 27-336. Bill Grossman seconded.

The motion was voted and passed (6-0).

The motion was voted and passed (6-0).

3. **Revisions of the City of Dunwoody City Code Chapters 16, Land Development.**

Bob Dallas opened discussion on Chapter 16.

Robert Wittenstein, resident, 1146 Bordeaux Court, spoke and proposed changes to the code for public notifications of administrative decisions. He provided a handout to Commission Members.

Jim Kelly, resident of 1310 Nerine Circle, spoke regarding public improvement fees for redevelopment.

The Commission discussed proposed changes to the subdivision plat

procedures.

After discussion, the Commission made the following recommendations:

- Special Administrative Permit decisions:
- Applicant shall notify immediately adjacent property owners of the pending decision;
- Parties entitled to a grievance through the appeals process should be those within 1500 feet, as recommended by staff;
- Appealable decisions shall be listed on the City's website and in less detail in the Crier; and
- Subdivision plat process: initial staff review, final decision before the Planning Commission, and appealable to the City Council.

Bill Grossman motioned to approve the Commission's recommendations. Paul Player seconded.

The motion was voted and passed (6-0).

Bob Dallas proposed that the section on minor subdivisions be redefined to mean subdivisions where no new lots are created and adjustments to lot lines are being adjusted.

Bill Grossman motioned to accept changes to the subdivision process as stated by Bob Dallas. Heyward Wescott seconded.

The motion was voted and passed (6 - 0).

The Commission and staff discussed that *Sec. 16-186. Applicability*, defining major or minor subdivisions, will need to be reworked if the proposed changes are accepted. The following votes appended the original motion related to redefining major and minor subdivisions:

Bill Grossman motioned to amend the prior motion to apply to *Sec. 16-190 Appeals*. Heyward Wescott seconded.

The motion was voted and passed (6 - 0).

Bill Grossman motioned to amend the prior motion to apply to *Sec. 16-202. Final plat procedure. (e) Appeals*. Heyward Wescott seconded.

The motion was voted and passed (6 - 0).

The Commission discussed *Sec. 16-218. Exemptions* regarding off-site improvements in residential zoning districts.

Renate Herod motioned to amend *Sec. 16-218(2)* to strike after "created" and *16-218(3)* strike after "replaced." Kirk Anders seconded.

The motion was voted and passed (5-1). Bill Grossman dissented.

The Commission voiced support of language staff has written into *Sec. 16-*

259(h), Sidewalks and bicycle lanes, and did not support the removal of language from this section as recommended by the Community council.

Renate Herod motioned to approve all of staff's proposed changes to Chapter 16, accepted without comment, unless previously motioned. Kirk Anders seconded.

The motion was voted and passed (6 – 0).

4. Revisions of the City of Dunwoody City Code Chapters 27, Zoning.

Bob Dallas opened discussion of Chapter 27 amendments.

Robert Wittenstein recommended changes to personal care homes under Sec. 27-57. Uses allowed, and proposed restoring the "P's" to personal care homes for family and group. He also raised concerns over Sec. 27-445, which requires the Community Development Director to notify the City Council in writing of every administrative decision.

Bruce Lindeman, resident of 4624 Briar Way Place, spoke in favor of adding a definition for community living arrangements, specifically for individuals with developmental disabilities who receive funding from the Department of Behavioral Health and Developmental Disabilities (DBHDD). He spoke against having a SLUP process for personal care homes.

Linda Dunlevy commented on proposed changes to personal care home definitions and zoning requirements, regarding the lack of attention to staffing levels. She suggested a SLUP process for personal care homes in residential zoning districts (pertaining to institutions which are licensed by the State). She expressed concern over the need to make Sec. 27-111(5), which allows the Community Development Director to make a use determination, consistent with the revisions to the administrative appeals section in Chapter 16.

Rena Harris, Director of Developmental Disability Services at the Marcus Jewish Community Center, spoke in opposition to a SLUP process for personal care homes in a residential zoning district.

Mark Collins, resident of 1337 Manget Way, spoke in favor of a SLUP process for personal care homes in residential zoning districts.

The Commission asked questions to staff regarding staff's research into community living arrangements.

Allison Wooten, resident of 4865 Manget Court, spoke in favor of a SLUP process for personal care homes.

Bill Grossman motioned to approve the changes recommended by staff on the personal care home uses as follows:

- "personal care home, family, 1-4 persons" to be a permitted use in all residential districts as indicated by staff in the table in Sec. 27-**

-
- 57;**
 - “personal care home, group, 5-7 persons” to be a SLUP in all residential districts;
 - “personal care home community, 8-15 persons” to be a SLUP in RM-150, 100, 85, 75, and HD; and
 - “community living arrangement, 1-4 persons” to be a permitted use, where indicated by staff.

Heyward Wescott seconded.

The motion was voted and passed (4 - 1). Kirk Anders was the dissenting vote.

Heyward Wescott motioned to approve the unmodified portions of staff’s recommendations for Chapter 27. Kirk Anders seconded.

The motion was voted and passed (5 – 0).

G. OTHER BUSINESS

H. PUBLIC COMMENT

Councilmember Terry Nall commended the Commission Members for their service.

I. COMMISSION COMMENT

J. ADJOURN

Heyward Wescott motioned to adjourn. Kirk Anders seconded.

The motion was voted and passed (5 – 0).

Approved by:

Chairman

Attest:

Secretary



COMMUNITY COUNCIL

Norb Leahy, Chair
Tony Delmichi
Clayton Coley

Rick Callihan, Vice Chair
Debi Shendelman
Sam Verniero

MINUTES

CITY OF DUNWOODY
41 PERIMETER CENTER EAST, SUITE 103
DUNWOODY, GA 30346

November 13, 2014
7:00 PM

A. CALL TO ORDER

B. ROLL CALL

All members were present except Debi Shendelman.

Also present: Steve Foote, Community Development Director
Andrew Russell, Planning Coordinator

C. MINUTES

1. Approval of meeting minutes from July 10, 2014 Community Council Meeting.

The Commission discussed the draft minutes. No vote was taken, so the minutes will be voted on at the next Community Council Meeting.

D. ORGANIZATIONAL AND PROCEDURAL ITEMS

E. UNFINISHED BUSINESS

F. NEW BUSINESS

1. **RZ 15-011:** Pursuant to the City of Dunwoody Zoning Ordinance, applicant, HDP Acquisitions, LLC c/o Hotel Development Partners, LLC, seeks permission to rezone property currently zoned Commercial-Residential Mixed-Use (CR-1) to Commercial-Residential Mixed-Use (CR-1) to allow for a change of previous conditions. The subject property is located at 4681 Ashford Dunwoody Road, Dunwoody, GA 30338. The tax parcel is 18 350 01 015.

Steve Foote presented the request to change conditions of the rezoning.

Don Boyken, representative of the applicant, presented on behalf of the application.

Joe Seconder, resident, voiced concern over walkability, pedestrian connectivity, public green space, outdoor seating and dining.

Motion to approve made by Tony Delmichi and seconded by Rick Callihan.

Passed For: 5; Against: 0; Abstain: 0; Absent: 1

2. Discussion of:

Revisions of the City of Dunwoody City Code Chapters 16, Land Development.

Revisions of the City of Dunwoody City Code Chapters 27, Zoning.

Norb opened public comment for the text amendments related to Chapter 16.

Robert Wittenstein, resident, presented comments on Chapter 16 (written copies provided to Community Council) regarding appeals of administrative decisions and Mark Collins supported Robert's recommendations. Matthew McCue, resident, presented regarding the need for citizen engagement in the community for new developments and for greater public input (handout provided to Community Council).

Motion to approve with the amendment to Section 16-33(c) to include "publication on-line and the written notification of adjacent property owners of the community development director's decision" at the conclusion of the application filing provisions made by Norb Leahy and seconded by Sam Verniero.

Passed For: 5; Against: 0; Abstain: 0; Absent: 1

Steve Foote made a presentation regarding the proposed text amendments before the Community Council.

The Community Council discussed the changes proposed in Chapter 16. They discussed and generated comment on the following:

- a) **Sec. 16-79(b)(6), increase 200 sf to 500 sf for minor land disturbing activities in the stream buffer**
- b) **Sec 16-218(3), delete the portion of the sentence requiring public improvements on arterial and collector streets for new and replacement homes**
- c) **Sec. 16-259(h)(9), strike all of this subsection, which relates to bike lanes**

Motion to recommend denial of the proposed changes to Chapter 16 made by Norb Leahy and seconded by Tony Delmichi.

After a motion to recommend against the changes was made, the Community Council discussed the motion on the floor and ultimately did not vote.

Norb opened public comment related to amendments to Chapter 27.

Residents, Mark Collins, Bruce Lindeman and Robert Wittenstein, and also Rena Harris, spoke regarding proposed changes regarding group living issues. Rena Harris clarified the difference between personal care home and community living arrangements. Matthew McCue suggested early public notification.

Steve Foote introduced proposed revisions to Chapter 27, and Community Council discussed.

Motion to amend the text to remove personal care homes as permitted uses by right in single family residential districts made by Rick Callihan and seconded by Norb Leahy.

Passed For: 5; Against: 0; Abstain: 0; Absent: 1

Motion to deny made by Tony Delmichi. Motion died due to lack of a second.

Motion to approve with the following recommended changes made by Rick Callihan and seconded by Norb Leahy:

- a) Sec 27-57, add community living arrangements as an allowable use in all single family zoning districts
- b) Sec 27-57. Remove personal care homes as an allowable use in all single family zoning districts
- c) Forward Robert Wittenstein's document of proposed changes to Planning Commission and City Council

Passed For: 4; Against: 1; Abstain: 0; Absent: 1. Tony Delmichi dissented.

G. OTHER BUSINESS

H. PUBLIC COMMENT

I. COMMUNITY COUNCIL COMMENT

J. ADJOURN

Approved by:

Chairman

Attest:

Secretary