

ARTICLE 7: SUBDIVISION STANDARDS

A:	Generally.....	7-2
	1. Purpose and Intent	7-2
	2. Authority	7-2
	3. Applicability	7-2
	4. Definition and Recording Requirements	7-3
	5. Abrogation and Greater Restrictions	7-3
	6. Waivers	7-4
	7. Zoned Areas and Other Plans	7-4
	8. Existing Subdivision.....	7-4
	9. School Sites (Reserved).....	7-5
	10. Features in Common Area	7-5
	11. Penalties for Violation.....	7-5
B:	Required Public Improvements	7-5
	1. Monuments.....	7-5
	2. Streets	7-6
	3. Sidewalks	7-6
	4. Trail Facilities.....	7-6
	5. Storm Sewers and Stormwater Management Features.....	7-6
	6. Other Required Improvements	7-6
	7. No Construction of Improvements Until Plan Approval.....	7-6
	8. Inspection of Required Improvements.....	7-6
C:	Subdivision Lot Standards.....	7-7
	1. Subdivision Lots Generally	7-7
	2. Lot Dimensions and Standards	7-7
	3. Access Requirements for Lots, Including Exemptions.....	7-8
D:	Utilities	7-11
	1. General.....	7-11
	2. Water and Sewer Connections.....	7-11
	3. Underground Utilities	7-11
	4. Utility Easements.....	7-11
E:	Owner’s Association.....	7-11
	1. Establishment of Owner’s Association	7-11
	2. Submission of Owner’s Association Declaration	7-12

ARTICLE 7: SUBDIVISION STANDARDS

A. GENERALLY

1. PURPOSE AND INTENT

The purpose of this section is to establish standards for the subdivision of land within the town's jurisdiction. More specifically, this section is intended to:

- (a) provide for the orderly growth and development of the town;
- (b) foster the distribution of population and traffic in a manner that will avoid congestion and overcrowding;
- (c) foster a high level of connectivity between neighborhoods and other destinations in town with an integrated network of streets, sidewalks, bikeways, and shopping;
- (d) maintain the town's rural character as defined by the Comprehensive Plan;
- (e) maintain conditions essential to the public's health, safety and general welfare;
- (f) facilitate adequate provision of public services; and,
- (g) facilitate the further re-subdivision of larger tracts into smaller parcels of land.

2. AUTHORITY

The Town of Summerfield hereby exercises its authority to adopt and enforce a Subdivision Ordinance under the provision granted by the provisions of the General Statutes of North Carolina, Chapter 160D-601.

3. APPLICABILITY

(a) General

All proposed subdivisions within the jurisdiction of the Town of Summerfield, including group developments, shall comply with these standards, shall be designed to promote beneficial development of the community, and shall bear a reasonable and rational relationship to the approved plans of the Town as set forth in Article 1.E.

(b) Development Standards Set Forth in Article 5

The standards in this Article are the minimum standards applicable to all subdivisions of land in the town. Because many aspects of community design apply to all forms of development, including but not limited to residential subdivisions, standards for streets, sidewalks, parking, open space, design standards where applicable, etc. are set forth in greater detail in Article 5: *General Development Standards*. In the case of conflict between this Subdivision Ordinance and Article 5 the stricter and/or most relevant to the Town's adopted plans.

(c) Reasonable Relationship

- (1) All required improvements easements, and rights-of-way (other than required reservations) shall substantially benefit the development, bear a reasonable connection to the need for public facilities attributable to the new development, or directly support specific goals and policies of the Town's adopted plans.
- (2) Whenever a tract to be subdivided includes or adjoins any part of a thoroughfare or collector street as designated by the Thoroughfare Plan or Collector Street Plan, the part of such proposed public right-of-way shall be dedicated to public right-of-way with the subdivision plat in the location and to the width recommended by the plans or this Article.
- (3) Subdivisions shall be designed to maximize public connectivity with adjacent and nearby roads, sidewalks, bikeways and trails wherever feasible. This includes the dedication to the public of

easements along potential routes for the same as established by the town's adopted transportation plans.

(d) Development Name

In no case shall the name of a proposed development duplicate or closely approximate phonetically the name of an existing development in Guilford County.

4. DEFINITION AND RECORDING REQUIREMENTS

(a) "Subdivision" Defined

For the purposes of this ordinance, "subdivision" means all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) including all divisions of land involving the dedication of a new street or a change in existing streets. However, the following are not included within this definition and are not subject to and exempt from any regulations enacted pursuant to this ordinance:

- (1) the combination or recombination of portions of previously platted lots where the total number of lots is equal to or exceeds the standards of the Town as shown in its subdivision regulations;
- (2) the division of land into parcels greater than ten (10) acres where no street right-of way dedication is involved;
- (3) the public acquisition by purchase of strips of land for the widening or opening of streets;
- (4) the division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the Town as shown in this ordinance;
- (5) the division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes; and,
- (6) the division of land into plots or lots for use as a cemetery.

(b) Recording Requirements

All divisions of a tract or parcel of land within the town of Summerfield meeting the statutory definition of subdivision must be created by map or plat according to the processes set forth in Article 3, and recorded with the Guilford County Register of Deeds in accord with State law, no such map or plat may be so recorded unless and until the Administrator has certified that the map or plat is a subdivision approved in accord with this Ordinance or is exempt from this Ordinance's subdivision approval regulations.

(c) Exempt Maps or Plats

Persons who contemplate exempt divisions of land are required to consult with the Administrator to confirm that the proposed division is indeed exempt from the subdivision approval regulations of this Ordinance.

If the Administrator determines that such a map or plat intended to be presented to the Register of Deeds for recording is not subject to the subdivision approval regulations of this Ordinance, he shall affix the following certificate to the map or plat:

I, *(Name of Ordinance Administrator)* for the Town of Summerfield, certify that this plat does not create a subdivision subject to the subdivision approval regulations of the State of North Carolina or the Town of Summerfield.

Administrator

Date

5. ABROGATION AND GREATER RESTRICTIONS

- (a)** The adoption and implementation of this ordinance is not intended to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law. or other Town of Summerfield Ordinances.

However, where this ordinance and another ordinance, easement, covenant, deed restriction, agreement, rule, regulation or permit conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

- (b) The following may impose additional regulations for land and structures located in the Town of Summerfield and are hereby adopted and incorporated into this ordinance by reference as though it was copied herein fully. However, where this ordinance and another regulation conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
 - (1) The North Carolina State Building Code, as adopted by the Building Code Council and enforced by State and local code enforcement officials and including all volumes.
 - (2) The National Manufactured Home Construction and Safety Standards
 - (3) The National Flood Insurance Program
 - (4) The Water Supply Watershed Protection Programs
- (c) The following agencies may impose additional regulations for land and structures located in the Town of Summerfield and are hereby referenced. However, where this ordinance and another ordinance, easement, covenant, deed restriction, agreement, rule, regulation or permit overlap, whichever imposes the more stringent restrictions shall prevail.
 - (1) The North Carolina Department of Transportation
 - (2) The North Carolina Division of Public Health, Environmental Health Section and the Guilford County Department of Public and Environmental Health
 - (3) North Carolina Department of Environmental Quality, Division of Water Resources
 - (4) Other Federal or State Agencies
- (d) The granting of an approval under the provisions of this Ordinance shall in no way affect any other type of approval required by any other statute or ordinance of the State or any political subdivision of the State, or of the United States, but shall be construed as an added requirement.
- (e) Nothing in this ordinance shall be deemed to require any change in the plans, construction or designated use of a building or structure where a building permit was secured prior to the adoption of this ordinance, so long as said building permit remains valid.

6. WAIVERS

The Planning Board may approve waivers to standards in this Ordinance, if such waiver can be made without destroying the intent of the ordinance and if one of the following apply:

- (a) where in its opinion a waiver will result in equal or better performance in furtherance of the purposes of this Ordinance; or,
- (b) where strict adherence to the provisions of this Ordinance would cause an unnecessary hardship due to topographical or other conditions peculiar to the site; or,
- (c) where through an unintentional error by the applicant, his agent, or the reviewing staff, there is a minor violation of a standard in this Article, where such violation is not prejudicial to the value or development potential of the subdivision or adjoining properties.

In granting waivers, the approval authority may require such conditions as will secure, insofar as practicable, the purposes of the standards or requirements waived.

7. ZONED AREAS AND OTHER PLANS

Development shall be permitted only in conformance with the regulations of the zoned district in which it is located, and any other adopted Town of Summerfield plans as set forth in Article 1.E.

8. EXISTING SUBDIVISION

The standards within this ordinance that apply to the development of new subdivisions shall not apply to any existing lots in a subdivision for which a building permit has been issued or prior to the effective date of this ordinance and has not expired; or for which an occupancy permit has been issued provided the subdivision plat has been recorded with the Guilford County Register of Deeds prior to the effective date of this ordinance. Changes to such a lot after the effective date of this ordinance including, but not limited to, lot size, lot location, lot configuration or lot lines shall be in conformance with this ordinance.

The standards within this ordinance that apply to the development of new subdivisions shall not apply to any lots forming a part of a subdivision which has recorded a subdivision plat with the Guilford County Register of Deeds prior to the effective date of this ordinance; except changes to such lots after the effective date of this ordinance including, but not limited to, lot size, lot location, lot configuration or lot lines shall be in conformance with this ordinance.

The adoption of this Ordinance shall not be interpreted as permission to continue or initiate any unsafe or unhealthy practices, nor shall it be interpreted to relieve the owner of any responsibility to comply with other existing ordinances or regulations of any regulatory authority. Any legal action pending as a result of non-compliance with any existing ordinance or regulation shall not be interpreted to be affected by the adoption of this Ordinance.

If the plat of a subdivision has been recorded with the Guilford County Register of Deeds but has not been developed it may be necessary to revise or re-plat the subdivision or portions of the subdivision where State law, State regulation or public health laws have changed since the time of recording.

Subdivisions which have not been recorded with the Guilford County Register of Deeds Office or phases of a subdivision which have not been recorded with the Guilford County Register of Deeds Office at the time of the adoption of this Ordinance shall not be recorded unless the subdivision or phase of a subdivision meets fully the requirements set forth in this Ordinance and any amendments thereof.

9. SCHOOL SITES (RESERVED)

10. FEATURES IN COMMON AREA

Features of an approved subdivision designated as environmental, cultural, historical, and other resources that represent assets to the property as identified by the Summerfield Comprehensive Plan shall be identified as Common Area or offered for Public Dedication. Examples of such resources include environmentally sensitive areas, viewsheds, rural roadside buffers, historic features and settlement patterns, pastures and farm buildings, woodlands, and other natural and man-made land features.

11. PENALTIES FOR VIOLATION

After the effective date of this ordinance, any person who, being the owner or agent of the owner of any land located within the territorial jurisdiction of this ordinance, thereafter subdivides his land in violation of this ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the terms of this ordinance and recorded in the office of the Guilford County Register of Deeds, shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or the document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The Town through its attorney or other official designated by the Town of Summerfield Town Council may bring an injunction of any illegal subdivision, transfer, conveyance or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with this ordinance.

Each day such violation continues shall be considered a separate and distinct offense. Nothing herein contained shall prevent the Town of Summerfield from taking such other lawful action as is necessary to prevent or remedy any violation.

B. REQUIRED PUBLIC IMPROVEMENTS

Except as provided for a bond, letter of credit or other suitable guarantee (See Article 5.L *Performance and Maintenance Guarantees*), the following requirements for improvements shall be fulfilled before a final plat shall be reviewed or approved in accordance with Article 3: *Permits and Procedures*.

1. MONUMENTS

Permanent monuments shall be installed at all points of intersection, points of curvature and points of tangency of all outside boundary lines of the plat and along all street lines, including the intersection of boundary lines with street lines and at such other points and to such specifications as may be required by North Carolina General Statutes Section 47-30 as amended in accordance with good engineering practice.

2. STREETS

All streets in the subdivision shall be constructed by the developer to the full width and to the cross section and profile as prescribed in Article 5.B *Transportation, Road, and Circulation Standards*, or as may be modified by the Administrator or Planning Board, as applicable, during subdivision review and approval.

3. SIDEWALKS

- (a) In any subdivision located within the jurisdiction of the town, sidewalks shall be constructed of concrete or other approved surface in accordance with the standards for sidewalks in Article 5.D *Trail and Sidewalk Standards*.
- (b) The developer is required to pay the entire cost of sidewalks within the development. Payment in-lieu of sidewalk construction may be considered in accordance with Article 5.D *Trail and Sidewalk Standards*.

4. TRAIL FACILITIES

- (a) In any subdivision located within the jurisdiction of the town, trail facilities shall be installed in accordance with the standards set forth in Article 5.D *Trail and Sidewalk Standards*.
- (b) The developer is required to pay the entire cost of trail facilities as part of road improvements within the development. Payment in-lieu of trail construction may be considered in accordance with Article 5.D *Trail and Sidewalk Standards*.
- (c) Trail maintenance responsibilities shall be included in Homeowners Association Covenants, Conditions & Restrictions.

5. STORM SEWERS AND STORMWATER MANAGEMENT FEATURES

Storm sewers, drains and structures shall be installed by the developer and shall be installed of a size and type and in locations so as to provide for the disposal of surface water, in order of preference: (1) as recharge to the groundwater table or (2) into a natural watercourse. Standards for such facilities are set forth in Article 9.A-E, or as may be modified by the Administrator or Planning Board, as applicable, during subdivision review and approval.

6. OTHER REQUIRED IMPROVEMENTS

Other improvements required as part of the approval of any subdivision of land shall be completed, guaranteed, or dedicated to the public before a final plat shall be approved. Examples include landscaping, parking, proposed public amenities, and other requirements of development conditions associated with the tract.

7. NO CONSTRUCTION OF IMPROVEMENTS UNTIL PLAN APPROVAL

Street, sidewalk, utility and other required improvements may not be installed until construction plans for such improvements have been reviewed and approved by the Administrator or, if authorized by the Administrator, Guilford County. Construction plans for all required improvements shall be submitted to the Administrator following Preliminary Plat approval. For each subdivision section, construction plans shall include all

improvements lying within or adjacent to that section as well as related improvements lying outside that section and being required to serve that section.

8. INSPECTION OF REQUIRED IMPROVEMENTS

Work performed pursuant to construction plans for required improvements shall be inspected and approved by the Administrator, or an authorized representative, before the Final Plat may be approved, or a performance guarantee for their construction has been approved (See Article 5.L *Performance and Maintenance Guarantees*.)

C. SUBDIVISION LOT STANDARDS

1. SUBDIVISION LOTS GENERALLY

- (1) Every lot created shall be capable of meeting the standards of this ordinance. Every lot created shall be usable by virtue of size, soil type, topography, access to public roads, solid waste disposal, and water and sewage provisions meeting all applicable Guilford County Health Department requirements.
- (2) All lots in new subdivisions shall conform to the zoning requirements of the district in which the subdivision is located.
- (3) Where two or more existing contiguous lots in one ownership form a buildable lot, where individually they do not, the lots shall be combined or recombined into one lot prior to the issuance of any permits.
- (4) Double frontage lots may be allowed where a permanent access restriction along the entire length of the second road frontage shall be recorded on the final plat. Grading and or landscaping shall be such that casual access on the second frontage is discouraged.
- (5) Corner lots shall be addressed so as to allow sufficient size for all required setbacks.
- (6) For the purposes of determining the size of a lot, the net area will be used. The net area calculations shall not include road rights-of-way or private roads.
- (7) Lots shall not contain peculiarly shaped elongations or protrusions, solely to provide necessary square footage of area which would be unsuitable for normal purposes.

2. LOT DIMENSIONS AND STANDARDS

The size, shape, and orientation of lots shall be appropriate for the location of the proposed subdivision and for the type of development contemplated and shall conform to the following.

(a) Conformance to Other Regulations

Every lot shall have sufficient area, dimensions, and street access to permit a principal building to be erected thereon in compliance with all zoning and other requirements of this Ordinance.

(b) Large Lot Configurations to Support Future Development

In cases where the subdivision consists of parcels larger than ordinary building lots, such parcels shall be so arranged as to allow the opening of future streets and logical further subdivision. The developer may be required to dedicate rights-of-way for future roads to provide access to areas of potential re-subdivision.

(c) Minimum Building Area

Every lot shall have contiguous buildable area of a shape sufficient to hold a principal building, equal to at least forty (40%) percent of its total area.

(d) Lot Depth to Width Ratio

No lot shall have a depth greater than four (4) times the width at the minimum building line.

(e) Side Lot Line Configuration

Insofar as practical, side lot lines shall be at right angles to straight street lines or radial to curved street lines.

(f) Lot Lines and Drainage

Lot boundaries shall coincide with natural and pre-existing man-made drainageways to the extent practicable to avoid lots that can be built upon only by altering such drainageways.

(g) Subdivision of Existing Lots or Reduction in Lot Size

(1) No subdivision of an existing lot or lots shall be allowed where a well, septic tank, drainage field or replacement drainage field would be separated from the structure it serves.

(2) No existing lot shall be reduced in size such that compliance with respect to any development, health or safety requirements cannot be met. Nor shall any nonconformity or violation be increased.

(3) Where two or more existing contiguous lots in one ownership form a buildable lot, that buildable lot shall not be reduced in size such that compliance with respect to any development, health or safety requirements cannot be met. Nor shall any nonconformity or violation be increased.

(4) Exemption to b) and c) of this subsection. These prohibitions shall not apply if the lot size is reduced as a direct result of an acquisition or condemnation proceeding by the county, the city or the state.

(5) No subdivision of an existing lot or lots shall be allowed where an existing structure would lie on parts of two or more lots.

(h) Lots on Thoroughfares

Major subdivisions shall not be approved that permit individual residential lots to access thoroughfares, as shown on the adopted thoroughfare plan.

(i) Determining Building Setbacks

Conventions for determining the location of front, side, and rear yard building setbacks are described in Article 11: *Definitions*.

3. ACCESS REQUIREMENTS FOR LOTS, INCLUDING EXEMPTIONS

All lots must have public street access and frontage meeting the requirements set forth in Article 4: *Zoning*. Access and frontage exceptions may be approved only in accordance with one of the following alternatives. Shared driveways meeting the requirements of 7.3.(c) are encouraged over other exemptions.

(a) Flag Lots (See Figure 7.C.2(a))

Flag lots may be approved in accordance with the following requirements:

(1) a Flag Lot shall serve only one single-family dwelling and its approved accessory structures;

(2) the maximum flagpole length shall be three hundred (300) feet;

(3) the minimum flagpole width shall be twenty-five (25) feet;

(4) The maximum lot size shall be three (3) acres. For lots located in the Watershed Critical Area Tier 2, the minimum lot size shall be five (5) acres and the maximum shall be ten (10) acres.

(5) the flagpole portion of lot shall not be used to calculate area, width, depth, coverage and setbacks of the lot or to provide off-street parking;

- (6) Use of a single driveway to serve a flag lot and an adjoining lot is permitted and encouraged; the preferred location for the driveway is on the flagpole portion of the flag lot, with the conventional lot granted an access easement over the flagpole.

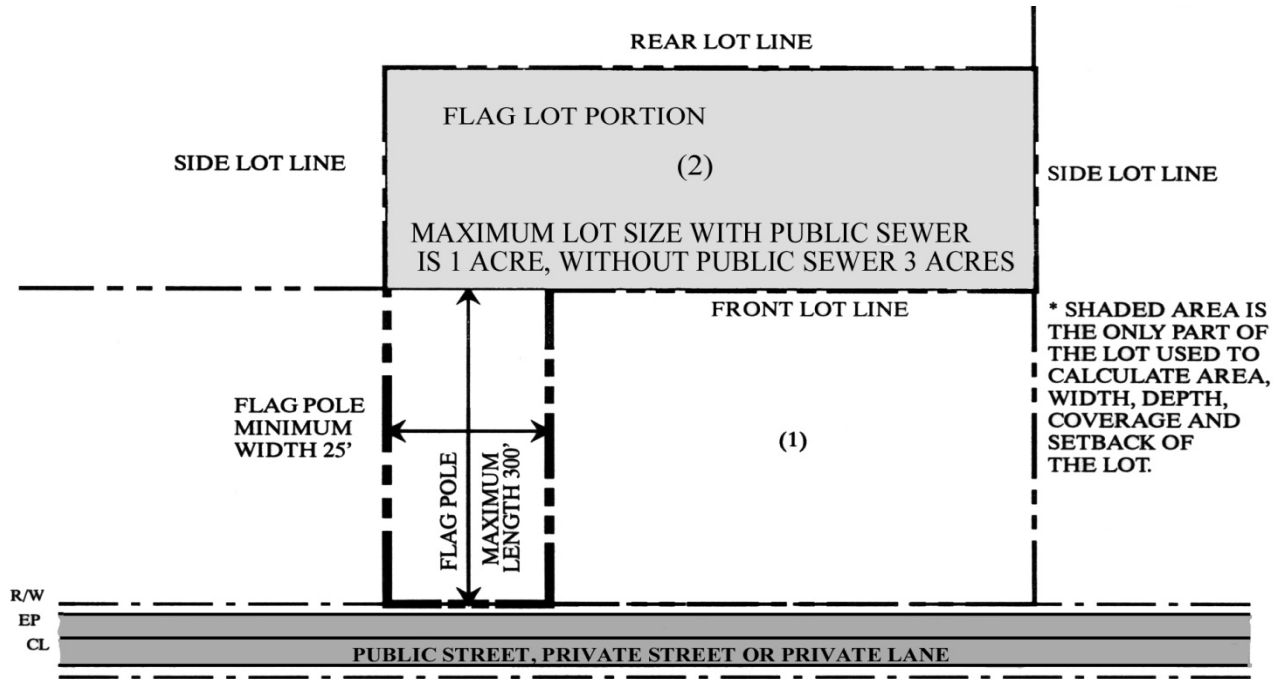


Figure 7.C.2(a) Flag Lot.

(b) Lots served by Easements (See Figure 7.C.2.(b)) **Exclusive Access**

Lots served by an exclusive access easement may be approved in accordance with the following requirements:

- (1) an Exclusive Access Easement shall serve only one single-family dwelling and its uninhabited accessory structures;
- (2) lots to be served by an Exclusive Access Easement shall not be created in an area or within any extraterritorial jurisdiction;
- (3) the minimum lot size shall be three (3) acres;
- (4) the minimum easement width shall be twenty-five (25) feet;
- (5) the minimum easement length shall be three hundred (300) feet;
- (6) the minimum separation between easement and any other platted access or right-of-way shall be one-hundred and fifty (150) feet;
- (7) the location of the easement must be recorded on a plat; and
- (8) the Exclusive Access Easement shall permit ingress, egress, and regress and necessary utilities required to serve the lot.

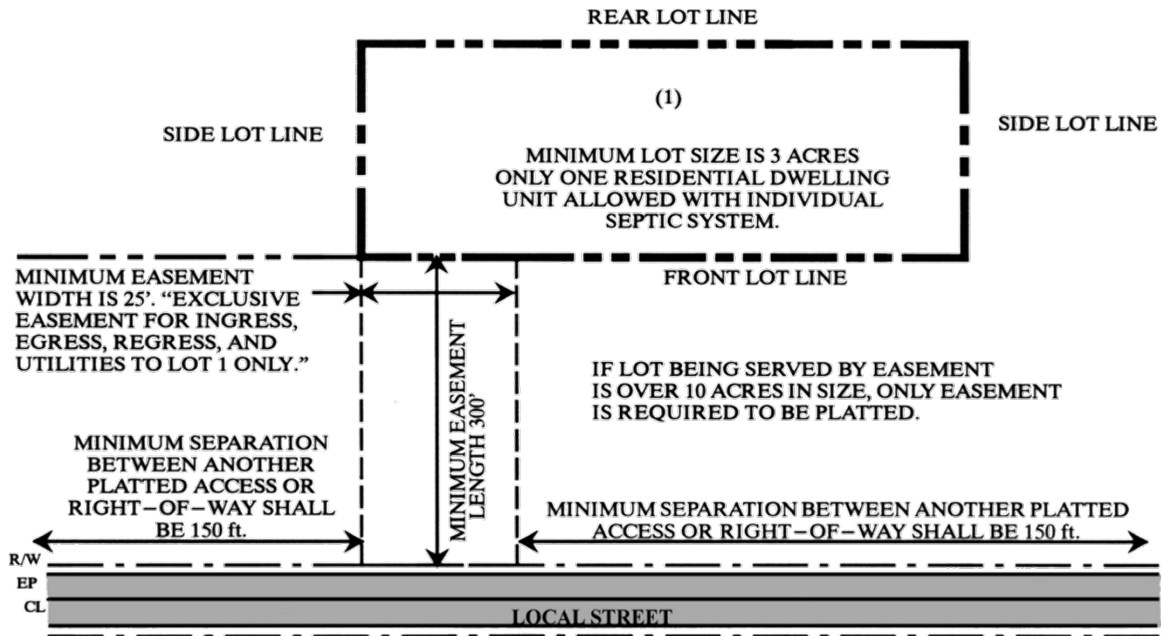


Figure 7.C.2(b) Lot served by exclusive access agreement.

(c) Other Exceptions to Lot Access Requirements

Other situations in which direct access from a lot to a street is not required are:

- (1) lots and units located in developments with Owner’s Associations or group developments in which permanent access is guaranteed by means of approved private street and/or drives;
- (2) lots located on approved private lanes which are platted and recorded pursuant to the provisions of this Ordinance and NCGS 136-1-2.6;
- (3) lots of record provided there is recorded access and the use is limited to only one single-family dwelling and its approved accessory structures.

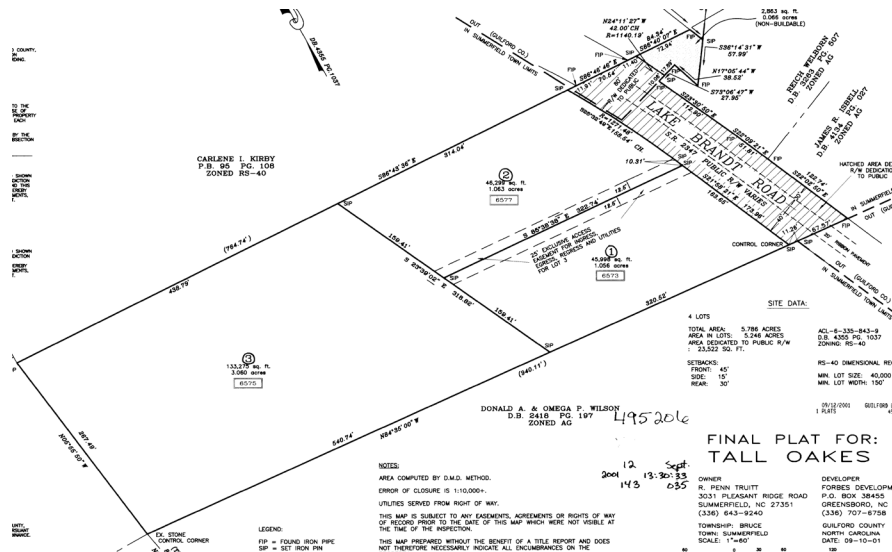


Figure 7.C.2(c) Example of Lots with shared driveways

D. UTILITIES

1. GENERAL

Water, sewer, electrical, gas, television and telephone utilities must be approved in accordance with Article 5: *Use-Specific Development Standards* for Minor Utilities. Community wells and sewage treatment systems are permitted and encouraged as a means of promoting compact development within surrounding open space. Community wells and sewage treatment systems must be approved, installed and maintained in accordance with State and/or County requirements. The areas designated for community wells and sewage treatment systems shall be indicated on the Sketch Plan and Unified Development Plan.

2. WATER AND SEWER CONNECTIONS

- (a) Lots shall be evaluated in accordance with Laws and Rules for Sewage Treatment and Disposal Systems, Article 11 of NCGS Chapter 130A.
- (b) Approval of the Environmental Health Division, the North Carolina Department of Environment and Natural Resources, or a Soil Scientist shall be obtained after Preliminary Plat approval.
- (c) The Final Plat shall show lot(s) denied or not evaluated or certified crosshatched and labeled in accordance with Article 3.

3. UNDERGROUND UTILITIES

Electrical, television cable, and telephone utility lines installed within major subdivisions shall be underground unless the Planning Board determines underground installation is inappropriate due to physical constraints of the property.

4. UTILITY EASEMENTS

(a) Major Subdivisions

To provide for electric, telephone, gas and community antenna television services conduits, and sewer or water lines within the subdivision appropriate utility easements not to exceed thirty (30) feet in width shall be provided. The location of such easements shall be reviewed and approved by the Planning Board, with advice from utility providers, before Final Plat approval.

(b) Minor Subdivisions

Lots fronting on public streets with access to existing utilities are not required to have utility easements. All other lots shall show a twenty (20) foot utility easement to the front, side, or rear of each lot unless easement releases are obtained from all utility companies, in which case no utility easement will be required.

(c) No Buildings or Improvements

Utility easements shall be kept free and clear of any buildings or other improvements that would interfere with the proper maintenance or replacement of utilities. The Town shall not be liable for damages to any improvement located within the utility easement area caused by maintenance or replacement of utilities located therein.

E. OWNERS ASSOCIATIONS

1. ESTABLISHMENT OF OWNERS ASSOCIATION

(a) Creation

An Owners Association shall be established to fulfill the requirement of the North Carolina Condominium Act or to accept conveyance and maintenance of all common areas and facilities within a development containing common areas.

(b) Conveyance

Where developments have common areas or facilities serving more than one (1) dwelling unit, all of these areas shall be conveyed to the Owner's Association in which all owners of lots in the development shall be members. All areas other than public street rights-of-way, other areas dedicated to the Town, and lots shall be shown and designated as common areas. The fee-simple title of the common area shall be conveyed by the owner or developer to the Owner's Association.

(c) Subdivision or Conveyance of Common Area

Common areas shall not be subsequently subdivided or conveyed by the Owner's Association, unless a revised Preliminary Plat and a revised Final Plat showing such subdivision or conveyance have been submitted and approved.

(d) Owner's Association Not Required

Developments involving only two (2) units attached by a party wall shall not be required to have common areas or an Owner's Association. Developments with only two units attached and not having an Owner's Association shall have an agreement between owners concerning maintenance of party walls.

2. SUBMISSION OF OWNERS ASSOCIATION DECLARATION

Prior to or concurrently with the submission of the Final Plat for review and approval, the owner or developer shall submit a copy of the proposed Bylaws of the Owners Association containing covenants and restraints governing the Association, plats, and common areas. A final plat shall not be approved without the review and approval of the Bylaws in accordance with this section. The restrictions shall include, but not be limited to, provisions for the following.

(a) Existence before Any Conveyance

The Owner's Association declaration shall be organized and in legal existence prior to the conveyance, lease-option, or other long-term transfer of control of any unit or lot in the development.

(b) Membership

Membership in the Owner's Association shall be mandatory for each original purchaser and each successive purchaser of a lot or unit. Provisions shall be made for the assimilation of owners in subsequent sections of the development.

(c) Owner's Association Declaration

The Owner's Association Declaration shall contain the following items.

(1) Responsibilities of Owner' Association

The Owner's Association declaration shall state that association is responsible for:

- a. the payment of premiums for liability insurance and local taxes;
- b. maintenance of recreational and/or other facilities located on the common areas; and
- c. payment of assessments for public and private improvements made to or for the benefit of the common areas.

(2) Default of Owners Association

Upon default by the Owner's Association in the payment to the Town of any assessments for public improvements or ad valorem taxes levied against the common areas, which default shall continue for a period of six (6) months, each owner of a lot in the development shall become personally obligated to pay to the Town a portion of the taxes or assessments in an amount determined by dividing the total taxes and/or assessments due to the Town by the total number of lots in the development. If the sum is not paid by the owner within thirty (30) days following receipt of notice

of the amount due; the sum shall become a continuing lien on the property of the owner, his heirs, devisees, personal representatives and assigns. The Town may either bring an action at law against the owner personally obligated to pay the same or may elect to foreclose the lien against the property of the owner.

(3) Powers of the Association

The Owners Association is empowered to levy assessments against the owners of lots or units within the development. Such assessments shall be for the payment of expenditures made by the Owner's Association for the items set forth in this Section, and any assessments not paid by the owner against whom such assessments are made shall constitute a lien on the lot of the owner.

(4) Easements

Easements over the common areas for access, ingress, and egress from and to public streets and walkways and easements for enjoyment of the common areas, and for parking, shall be granted to each lot owner or to the public as appropriate.

(5) Maintenance and Restoration

Provisions for common area maintenance of and restoration in the event of destruction or damage shall be established for each and every feature included in Common Area.