

APPENDIX B

SUBDIVISIONS*

* **Editors Note:** Printed in this appendix is Ordinance No. 6, as adopted by the board of commissioners on September 28, 1972, and effective on September 29, 1972. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

Cross References: Any ordinance regulating or otherwise relating to the subdivision of land saved from repeal, § 1-4(3); buildings and building regulations, ch. 6; environment, ch. 10; streets and sidewalks, ch. 24; zoning, app. A.

State Law References: Subdivision regulations, G.S. 160A-371 et seq.

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Section 1. Short Title.

This ordinance shall be known and may be cited as the "Subdivision Ordinance of Mint Hill, North Carolina."

Section 2. Purpose.

In pursuance of the authority conferred by the General Assembly of the State of North Carolina, and for the purposes of promoting the orderly development of Mint Hill, N.C. and for the purpose of coordinating streets within subdivisions with existing or planned streets or with other public facilities; to secure adequate spaces for traffic, recreation and school sites; to provide for the distribution of population and traffic which shall avoid congestion and overcrowding; to create conditions essential to health, safety, convenience and the general welfare, the Board of Commissioners of the Town of Mint Hill does ordain and enact into law the following

sections.

Section 3. Definitions.

(a) *Subdivision.* A subdivision shall include all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale or building development and shall include all divisions of land involving the dedication of a new street or a change in existing streets; provided, however, that the following shall not be included within this definition nor be subject to the requirements of this ordinance:

- (1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to the standards of Mint Hill.
 - (2) The division of land into parcels greater than five 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 where the entire area of which is no greater than two acres into not more than three lots, if no street right-of-way dedication is involved and if the resultant lots are equal to the standards of Mint Hill. (Ord. No. 189, 4-25-1985)
- (b) *Park and Recreation Committee.* Shall mean the Mint Hill Park and Recreation Committee.
- (c) *Planning Board.* Shall mean the planning board of Mint Hill, N.C.
- (d) *Board.* Shall mean the Mint Hill Board of Commissioners.
- (e) *Health Department.* Shall mean the Mecklenburg County Health Department.
- (f) *School Board.* Shall mean the Charlotte-Mecklenburg Board of Education.
- (g) *Street Right-of-Way.* Shall mean any public right-of-way set aside for public travel.

(h) *Minor Residential Access Street.* A minor residential access street is a street used predominately to provide frontage for service and access to abutting residential properties. These streets shall carry only traffic having either destination or origin on the street itself and limited to serving no more than 16 residential lots. (Ord. No. 195, 1-23-1986)

(i) *Minor Industrial Access Street.* A minor industrial access street is a street used predominantly to provide access to abutting industrial properties.

(j) *Marginal-Access Street.* A marginal-access street is a street adjoining and parallel to an arterial street to relieve the arterial street of the necessity of providing access to abutting property.

(j.1) *Residential Collector Street.* A residential collector street is a street which carries residential

traffic from neighborhood areas to or from arterial, secondary or general traffic access streets, and provides limited residential frontage. (Ord. No. 195, 1-23-1986)

(k) *Secondary Street.* A secondary street is a street that connects minor access streets with arterial streets or provides direct connection between arterial streets and may be expected to carry a significant volume of traffic having neither origin nor destination on the street. (Ord. No. 195, 1-23-1986)

(l) *Arterial Street.* An arterial street is a federal or state highway or a street connecting widely separated areas and which carries or may be expected to carry a large volume of traffic between such areas. (Ord. No. 195, 1-23-1986)

(m) *Planned Multifamily Development.* A planned multifamily development is a group of two or more multifamily buildings or three or more duplexes, established in a single development tract, having unified design of buildings and coordinated organization of open space and service areas, and developed in accordance with an approved site plan.

(n) *Street Construction Standard I.* Standard design of streets within residential and nonresidential subdivisions, minimum of 24 feet of paved surface with curb and gutter (minimum of four inches of BCBC, type H topped with one-inch BCSC, or eight inches of A.B.C. topped with 2 1/2 inches BCSC). (Ord. No. 189, 4-25-1985)

(o) *Street Construction Standard II.* Standard design of streets within residential subdivisions, minimum of 24 feet of paved surface with curb and gutter (minimum of five inches of 3600 psi single-course nonreinforced Portland cement concrete pavement on a prepared base).(Ord. No. 189, 4-25-1985)

(p) *Cul-de-sac.* A street designed to be permanently closed at one end, or a street that may not reasonably be expected to be extended in the future. (Ord. No. 402, 5-10-2001; Ord. No. 480, § 1, 1-13-2005)

(q) *Half Street.* **A street bordering one or more boundary lines of a tract of land or parcel, one-half or less of the required right of way width**

Section 4. Territorial Jurisdiction.

The regulations hereinafter established shall apply to all of the incorporated area of Mint Hill, North Carolina, and the land area within its extraterritorial planning jurisdiction. (Ord. No. 294, 8-24-1995)

Section 5. Required Compliance With Regulations.

All plats for the subdivision of land shall conform to the requirements of this ordinance, and shall be submitted in accordance with the procedure and specifications established herein.

Section 6. Plats To Be Approved by Mint Hill Planning Board and Board of Commissioners.

After the effective date of this ordinance no plat of a subdivision of land within the territorial

jurisdiction of this ordinance shall be filed or recorded by the Mecklenburg County Register of Deeds until the plat shall have been submitted to and approved by the Mint Hill Planning Board, except as hereinafter provided.

Section 7. General Requirements.

(a) *Conformity.* All proposed subdivisions shall be planned so as to facilitate the most advantageous development of the entire neighboring area.

(b) *Extension of Existing Streets.* The proposed street system shall extend existing streets on their proper projection at the same width, or, at the option of the subdivider, greater width, than the minimum required by this ordinance.

(c) *Access to Unsubdivided Property.* The proposed street system shall be designed to provide for desirable access to and not to impose undue hardship upon unsubdivided property adjoining the subdivision. Reserve strips adjoining street right-of-way for the purpose of preventing access to adjacent property shall not be permitted.

(d) *Relation to Topography.* In sloping terrain, streets shall parallel the contours of the land, in so far as practicable, to avoid steep grades and the concentration of storm surface runoff.

(e) *Access to Parks, Schools, etc.* Streets shall be designed or walkway easements provided to assure convenient access to parks, playgrounds, schools and other places of public assembly. Walkway easements shall not be less than ten feet in width.

(f) *Connectivity Required.* Streets shall interconnect within a development and with adjoining development. Cul-de-sacs are permitted only where topographic conditions and/or exterior lot line configurations offer no practical alternatives for connection or through traffic. Street stubs should be provided with development adjacent to open land to provide for future connections. Streets shall be planned with due regard to the designated corridors shown on the thoroughfare plan. The use of circuitous routes and/or traffic calming devices is required. (Ord. No. 402, § 2, 5-10-2001; Ord. No. 480, § 2, 1-13-2005)

(g) *Relation to Railroad Rights-of-Way.* When a subdivision adjoins a railroad right-of-way, the subdivider may be required to arrange the street pattern to provide for future grade separation of street and railroad crossings.

(h) *Half-Streets.* Whenever an existing half-street is adjacent to a tract of land to be subdivided, the other half of the street shall be platted within such tract. New half-streets shall be prohibited except when essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations and where it will be practicable to require the dedication of the other half when the adjoining property is subdivided.

(i) *Access Streets, etc.* Where a tract of land to be subdivided adjoins an arterial street, the subdivider may be required to provide a marginal access street parallel to the arterial street or reverse frontage on an interior street for the lots to be developed adjacent to the arterial street. Where reverse frontage is established, deed restrictions or other means shall be provided to prevent private driveways from having direct access to the arterial street.

(j) *School Sites.* Where a tract of land that has been approved by the school board as a proposed school site lies wholly or partially within an area proposed to be subdivided, and provided the school board has notified the board of commissioners and planning board and the property owner of its approval of the school site prior to or within ten days after the presentation of a preliminary subdivision plan to the board of commissioners and planning board for approval, the subdivider shall reserve the proposed school site for a period of not more than 60 days from the date of tentative approval of the preliminary subdivision plan.

(k) *Recreation Sites.* When a tract of land that has been approved by the board of commissioners as a site for a recreation facility lies wholly or partially within an area proposed to be subdivided, and provided the board of commissioners has notified the planning board and the property owner of its approval of the recreation site prior to or within ten days after the presentation of the preliminary plan for planning board approval, the subdivider shall reserve the proposed recreation site for a period of not more than 30 days from the date of tentative approval of the preliminary plan.

(l) *Street Names.* Proposed street names shall not duplicate nor too closely approximate phonetically the name of any street within Mecklenburg County. Where proposed streets are extensions of existing streets, the existing street names shall be used except where a new name can reasonably be used to facilitate the proper house numbering or to avoid further street name duplication.

(m) *Easements.* Easements to the width and in the locations required by the Mecklenburg County engineer, but in any case not less than ten feet wide, shall be provided for open or piped storm drainage, sanitary sewers, water lines and other utilities.

(n) *Proposed Sewerage System.* The preliminary subdivision plan must be accompanied by satisfactory evidence as to the proposed method and system of sanitary sewage collection and disposal.

Where the system is to be connected to a sanitary sewage system owned and operated by Mecklenburg County or any municipality therein, but not constructed by the county or municipality, the preliminary subdivision plan shall be accompanied by a complete set of construction plans for the proposed system, prepared by a registered engineer, and approved by the appropriate official of the county or municipality owning and operating the system.

Where the proposed system of sewage disposal does not contemplate the use of facilities owned and operated by Mecklenburg County or any municipality therein, the proposed facilities for the disposal of sanitary wastes shall be approved by the health department, prior to the tentative approval of the preliminary subdivision plat. The health department shall certify that the subdivision will be serviced by approved facilities for the disposal of sanitary wastes prior to the tentative approval of the subdivision plat.

(o) *Restrictions on the subdivision for residential purposes of land subject to flooding.* Lots that are subject to flooding shall not be established in subdivisions for the purpose of creating residential building sites except as herein provided. Lots shall be construed to be subject to flooding when a flood crest recurring with a probable frequency of one time in 100 years (1 percent annual chance) would inundate any part of a proposed lot.

If any part of a proposed residential lot is or may be subject to flooding, the prospective subdivider may

make a determination of the crest elevation of a flood of 100 years probable frequency in accordance with generally accepted engineering practice. This determination must reflect the actual conditions imposed by the completed subdivision and must give due consideration to the effects of urbanization and obstructions.

No proposed residential building lot shown that is wholly subject to flooding as designed herein shall be approved.

No proposed residential building lot that is partially subject to flooding as defined herein shall be approved unless there is established on the lot plan a line representing an actual contour at an elevation two feet above the 100-year flood. Such line shall be known and identified on the lot plan as the "building restriction flood line." All buildings or structures designed or intended for residential purposes shall be located on such a lot so that the lowest useable and functional part of the structure shall not be below the elevation of the building restriction flood line. "Useable and functional part of the structure" shall be defined as being inclusive of living areas, basements, crawl spaces, sunken dens, basement utility rooms, attached carports and mechanical appurtenances such as furnaces, air conditioners, water pumps, electrical conduits and wiring, but shall not include water lines or sanitary sewer traps, piping and cleanouts, provided openings serving the structure are above the building restriction flood line.

Where only a portion of a proposed residential building lot is subject to flooding as defined herein, such lot may be approved only if there will be available for building a useable lot area of not less than 1,200 square feet. The useable lot area shall be determined by deducting from the total lot area the area of the setback required by this ordinance plus all additional yards and setbacks required by any applicable zoning district regulations, plus any remaining area of the lot lying below the building restriction flood line.

During the construction, preparation, arrangement and installation of subdivision improvements, and facilities in subdivisions located at or along a stream bed, the developer shall maintain the stream bed of each stream, creek or backwash channel contiguous to the subdivision in an unobstructed state and shall remove from the channel and banks of the stream all debris, logs, timber, junk and other accumulations of a nature that would, in time of flood, clog or dam the passage of water in their downstream course; installation of appropriately sized storm water drains, culverts or bridges shall not be construed as obstructions in the stream. (Ord. No. 386, § 1, 7-20-00)

(p) Underground utilities are required for all new residential developments

Cross References: Zoning Ordinance, App. A.

Section 8. Sketch Plan.

Prior to the filing of an application for approval of the preliminary plan, a sketch plan may be submitted to the ~~staff of the planning board~~ **Planning Department** for review and recommendation. When submitted, this sketch plan shall be on a topographical survey and shall show in simple sketch form the proposed layout of streets, lots, and other features in relation to existing conditions. The sketch plan may be a free hand pencil sketch made directly on a print of the topographical survey. It shall include the following information:

- (a) The boundary lines of the property being subdivided;
- (b) Watercourses on the land to be subdivided;

- (c) The location, names, and right-of-way width of any existing streets on or within 300 feet of the land to be subdivided; and
- (d) The location of all property lines which intersect the boundaries of the property being subdivided.

Section 9. Preliminary Plan Requirements.

The preliminary subdivision plan shall be drawn to the following specifications and shall contain or be accompanied by the following information:

- (a) The boundary of the area to be subdivided and the location within the area, or contiguous to it, of any existing streets, railroad lines, watercourses (**manmade or natural**), easements or other significant features of the tract.
- (b) The location, sizes, elevations of existing sanitary sewers, storm drains, and culverts within the tract and immediately adjacent thereto.
- (c) Original contours at intervals of not less than five feet for the entire area to be subdivided and extended into adjoining property for a distance of 300 feet at all points where street rights-of-way connect to the adjoining property. These contours shall be referenced to mean sea level datum when a bench mark is within 2,000 feet of the subdivision. Proposed contours for the full width of all street rights-of-way, along open drainage channels and in all other portions of the subdivision where extensive grading is proposed. These requirements shall not apply where the size of the subdivision and the topography make such information unnecessary.
- (d) The location of proposed streets, alleys, easements, lots, parks or other open spaces, reservations, other property lines and building setback lines with street dimensions, tentative lot dimensions, other property lines and the location of any building restriction flood lines required by section 7(o).
- (e) The location of all proposed storm drains and appurtenances with grades and sizes indicated, together with a map of the drainage area or areas tributary to the proposed storm drains, and a copy of the data used in determining the sizes of drainage pipes and structures.
- (f) The name of the subdivision; the name of the owner; the name of the surveyor, engineer or designer; the names of proposed streets; the names of adjoining subdivisions or property owners.
- (g) The scale of the plan, which shall not be smaller than 100 feet to the inch, north point, date.
- (h) Typical cross sections of proposed streets showing width and proposed construction of roadways.
- (i) Proposed profiles of roadways. Where a proposed street is an extension of an existing street the profile shall be extended to include 300 feet of the existing roadway and a cross section of the

existing street shall be shown. Where a proposed street within the subdivision abuts a tract of land that adjoins the subdivision and where said street may be expected to extend into said adjoining tract of land, the profile shall be extended to include 300 feet of the said adjoining tract.

- (j) A small-scale vicinity map showing the location of the subdivision with respect to adjacent streets and properties.

Section 10. Procedures; Preliminary Plans; Final Plats; Appeals.

(a) A preliminary plan of the proposed subdivision developed in accordance with the specifications set forth in section 9 shall be submitted to the planning board with a completed application form, accompanied by a filing fee set by the board of commissioners. Final plats in accordance with Section 11 shall also be submitted to the planning board with a completed application form, accompanied by a filing fee set by the board of commissioners. Subdivisions less than five lots may be approved by the planning department. Such fee shall be non-refundable, and shall be deposited in the general fund of the town. By agreement, engineering review of subdivision construction plans and final record plats are provided by Mecklenburg County and the county may also require payment of a fee to the county by the applicant. Ten copies of the plan shall be submitted with the application and one copy of the related data required in section 9. Preliminary plans that comply with the requirements of the ordinance shall be approved by the Mint Hill Planning Board within 35 days from the date the plan and required details are submitted to the [planning] board for approval; otherwise the plat shall be deemed to have been approved and a certificate to that effect shall be issued by the planning board on demand; provided, however, that the applicant may waive this [these] requirements and consent to the extension of the 35-day period.

(b) The preliminary plan required may be waived by the planning director or his/her designee for minor subdivisions provided that no new streets are proposed, and no improvements are required to be installed by the subdivider according to the provisions of this ordinance. Additionally, final plat approval of minor subdivision plats where no streets are proposed and no improvements are required may be granted by the chairman of the planning board upon receipt of written technical review and certification of compliance from the planning director or his/her designee. **Also, final plats for major subdivision may be granted by the Planning Board Chairman upon receipt of written technical review and certification of compliance from planning director or his/her designee. Such action shall be reported for the record to the planning board at the next regularly scheduled meeting.** Such action shall be reported for the record to the planning board at the next regularly scheduled meeting.

(c) Upon tentative approval of the preliminary subdivision plan by the planning board, the subdivider may proceed to comply with the other requirements of this ordinance, and the preparation of the final subdivision plat. The final plat may include all or only a portion of the subdivision as proposed and approved on the preliminary subdivision plan, provided that all required improvements to any existing street shown on the preliminary plan have been provided for prior to any final plat approval. The final subdivision plat shall be developed in accordance with the specifications set forth in section 11. When the final plat is submitted to the planning board for approval, it shall be accompanied by an application in duplicate for final plat approval on an application form to be supplied by the planning board. The official plat for recording, together with eight copies thereof, shall be presented for approval. The planning board shall approve or disapprove final plats which comply with the requirements of this ordinance not later than 35 days after the submission thereof. Final

approval of subdivision plats shall be granted upon installation of or provision for improvements required by this ordinance except the final one-inch surface course when paving under street construction standard I. Following final approval of the plat and before issuance of any building permits, a bond or other approved form of security in an amount determined by the county engineer shall be filed with the county engineer to assure that this final one-inch surface course will be applied to the street once said street has met the conditions outlined in section 20 for acceptance for maintenance. The delayed application of the surface course shall be considered as a testing period for the streets installed in order that any defects or deficiencies will have had at least one full cycle of seasons in which to appear, (except as provided for in section 20 where the board of commissioners waives the one year waiting period). In the event that defects or deficiencies do appear, the developer shall repair such defects in a manner approved by the street superintendent of the Town of Mint Hill and county engineer prior to applying the final surface course.

(d) If the planning board disapproves a preliminary plan or final plat of a subdivision, the grounds for such disapproval shall be stated upon the records of the planning board. After such disapproval an appeal from the decision of the planning board may be taken to the board of commissioners of Mint Hill. If the planning board approves a preliminary or final plat of a subdivision and the planning director believes such approval is contrary to the provisions of this ordinance (or the Zoning Ordinance), then the planning director shall submit the preliminary or final plat to the board of commissioners for reconsideration. An appeal may be taken by the applicant or planning director to the board of commissioners within 30 days from the date of the decision. The board of commissioners of Mint Hill may approve, disapprove in whole or in part or otherwise modify the action of the planning board. A final plat of a subdivision approved by the board of commissioners of Mint Hill upon appeal from the decision of the planning board shall be eligible for recording by the register of deeds of Mecklenburg County.

(e) In cases where the planning board of the Town of Mint Hill has granted preliminary approval of a subdivision and where the standards for development of the subdivision as contained in the ordinance have been amended, the subdivision shall be developed in accordance with the amended standards except in cases where development has proceeded based upon the preliminary approval granted and where, in reliance upon such approval, substantial work upon the ground has been performed and compliance with the amended standards would impose a substantial hardship on the developer of the development. The planning board shall make the determination as to what constitutes substantial work and what constitutes substantial hardship for the purposes of this section. The planning board shall consider the following points in making such determination:

- (1) The amount of time which has elapsed since preliminary approval was granted; and
- (2) The size of the subdivision which was approved and the length of streets within the subdivision; and
- (3) The amount of work which has been accomplished within the development in the way of providing required municipal improvements such as streets, curbs and gutter, sidewalks, water lines, sewer lines and similar facilities.

The planning board's determination may be appealed to the board of commissioners in accordance with the procedures stated in subsection (e), above.

(Ord. No. 35, § 1, 3-25-1976; Ord. No. 127, 2-26-1981; Ord. No. 189, 4-25-1985; Ord. No. 209, 10-22-1987; Ord. No. 242, 10-24-1991; Ord. No. 445, 5-8-2003; Ord. No. 480, §§ 3, 4, 1-13-2005)

Section 11. Final Plat Requirements.

The final plat shall be prepared by a registered surveyor or engineer and shall be drawn to scale not smaller than 100 feet equal one inch, and shall contain the following information.

- (a) The exact boundary of the tract of land being subdivided, showing clearly the disposition of all portions of the tract.
- (b) The lines and names of all streets, alley lines, lot lines, lot and block numbers, building lines, easements, reservations and areas dedicated to public use, with notes stating their purposes, building restriction flood lines as required by section 7(o) of the [this] Subdivision Ordinance of Mint Hill, N.C.
- (c) Sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street and alley line, lot line, building line, easements required hereunder or of record in Mecklenburg County or ascertainable by physical inspection of the property, and boundary lines of reserved or dedicated areas. All linear dimensions shall be in feet and hundredths thereof. The maximum allowable error of linear closure shall not be in excess of 1/10,000. In closed traverses the sum of the measured angles shall vary with the theoretical sum by a difference not greater than an average of 7.5 seconds per angle, or the sum of the total shall not differ from the theoretical sum by more than 90 seconds, whichever is smaller.
- (d) The name of the subdivision, the name of the owner, the name, registration number and seal of the registered engineer or surveyor under whose supervision the plat was prepared, the date of the plat and north point, with indication of whether the north point is true, magnetic, or grid.
- (e) The accurate location of monuments which shall be established at or near the corners of all blocks, including coordinates computed from the North Carolina Plane Rectangular Coordinate System and the City of Charlotte Primary Control System as extended therefrom, provided a control monument is within 2,000 feet of the subdivision. Such monuments shall be concrete posts not less than 30 inches long, four inches at the top and six inches at the bottom with a copper pin in the top to mark the location of the designated point. The monuments shall be placed flush with the level of the ground. The corners of all lots and parcels shall be marked with iron posts driven flush with the ground. Iron posts shall be placed where lot boundaries intersect railroad and North Carolina Department of Transportation rights-of-way.
- (f) A certificate signed by the engineer or surveyor meeting the requirements of G.S. 47-30 for proof upon oath that the plat is in all respects correct, written as follows:

The undersigned surveyor, being duly sworn, deposes and says that the plat upon which this certificate appears was prepared in accordance with G.S. 47-30 as amended, is in all respects correct according to the best of his knowledge and belief, and was prepared from an actual survey made by him on the _____ day of _____, 19_____, with a maximum linear error of closure of _____, and a maximum field error of angular closure of _____.

Final written approval by the chairman of the Mint Hill Planning Board or by the clerk to the board of Mint Hill Board of Commissioners when required under section 10(d) hereof, shall be entered on the plat for recording.

Section 12. Plats Already Established by Survey.

Plats already established by survey or in the process of being established by survey but not recorded by the Mecklenburg County Register of Deeds prior to the effective date of this ordinance shall be approved for recording without complying with the requirements of this ordinance, except that where this ordinance assumes jurisdiction over an area already having a subdivision ordinance in effect, plats which have received preliminary approval under the prior ordinance shall be subject to either the requirements of this ordinance or the requirements of the prior ordinance whichever the developer elects to have apply.

Section 12.1. Preliminary Site Plan and Final Plat Requirements for Planned Developments.

(a) The following requirements shall apply for the preparation, submission, and approval of preliminary site plans for planned unit developments, cluster developments, subdivisions involving one-family attached dwellings, and planned multifamily developments.

- (1) A pre-preliminary site plan conference will be arranged by the developer with designated members of the planning board prior to the submission of a preliminary site plan for a planned unit development or a cluster development.
- (2) The developer shall submit to the planning board a preliminary site plan and supplemental documents for review and approval. The preliminary site plan shall be prepared in accordance with the requirements of section 9, "Preliminary Plan Requirements," and shall include the following additional information:
 - A. The use, approximate height, bulk, and location of all buildings and structures other than one-family detached and semidetached dwellings;
 - B. All proposed land uses and dwelling unit densities;
 - C. In the case of plans which call for development over a period of years, a schedule showing the time within which application for final approval of all parts of the development are intended to be filed;
 - D. The proposed location, use, improvements, ownership, and manner of maintenance of common open space areas;
 - E. Final drafts of legal documents dedicating and restricting the common areas and establishing a homes association or similar organization;
 - F. Proposed off-street parking and circulation plan showing the location and arrangements of parking spaces and any driveways for ingress and egress to and from adjacent streets and highways.

- (3) The planning board shall review the preliminary site plan to ensure conformance with the requirements of the Zoning Ordinance [appendix A] and with this ordinance. In addition, the planning board shall make the following findings:
 - A. The character, amount and arrangement of common open space areas will adequately serve the needs of the residents;
 - B. Proposed means of dedication, ownership, and maintenance of all common areas, the restrictions of its uses, and the organization and authority of such homes association as may be established for ownership and maintenance of the common area assure the continuance of such space for its designed purpose;
 - C. Site planning for the overall development provides protection of the development from potentially adverse surrounding influences and protection of surrounding areas from potentially adverse influences within the development;
 - D. The terms and conditions proposed for development over a period of years [are] sufficient to protect the interests of the public and the residents of the development;
 - E. Deviation from conventional requirements is justified by the high quality of design of the development.
- (4) The planning board action may be approval, tentative approval with conditions, or denial of the preliminary site plan. When granted tentative approval with conditions, the developer shall submit a revised plan that is in conformance with those conditions.
 - A. If the planning board disapproves a preliminary site plan, the grounds for such disapproval shall be stated upon the records of the [planning] board. After such disapproval an appeal from the decision of the [planning] board may be taken to the Mint Hill Board of Commissioners. The board may disapprove in whole or in part, or otherwise modify the action of the planning board.
 - (b) The final plat for planned unit developments, cluster developments, and subdivisions involving one-family attached dwellings shall be prepared in accordance with the requirements of section 11, "Final Plat Requirements," and shall contain the following additional information:
 - (1) The use, approximate height, bulk, and location of all buildings and structures other than one-family detached and semi-detached dwellings;
 - (2) All land uses;
 - (3) The location, use, improvements, ownership, and manner of maintenance of all common areas.

Section 13. Standards of Design--Streets.

(a) *Right-of-Way.* A proposed street right-of-way shall be of sufficient width to accommodate the required cross section, but in no case shall the right-of-way be less than 60 feet. Where a subdivider elects to establish a roadway divided with a center strip, the right-of-way width shall not be less than the proposed width of the center strip plus 62 feet.

(b) *Arterial Street Right-of-Way.* Whenever a tract of land to be subdivided includes any part of an arterial street shown on the Mecklenburg-Union Thoroughfare Plan or streets shown on a local street plan approved by the planning board and adopted by the board of commissioners, a right-of-way for the arterial street or other streets shall be platted in the location and to the width specified in the Mecklenburg-Union Thoroughfare Plan or local street plan. (Ord. No. 386, § 2, 7-20-00)

(c) *Grades.* The longitudinal grade on any proposed street shall be subject to the approval of the county engineer. However, the minimum grade on any proposed street shall not be less than one-half of one percent and the maximum grade shall not exceed ten percent.

(d) *Curves.* Where a deflection angle of more than ten degrees in the alignment of a street occurs, the right-of-way shall be curved. The minimum horizontal radius of curvature at the centerline of proposed street rights-of-way shall not be less than the following:

Arterial Streets	500 feet
Secondary Streets	150 feet
All Other Streets	75 feet

(e) *Reverse Curves.* Reverse curves in street rights-of-way shall be connected by tangents of not less than the following dimensions:

Arterial Streets	150 feet
Secondary Streets	100 feet

(f) *Radius of Property Line at Intersections.* Property lines at street intersections shall be rounded with a radius of 20 feet.

(g) *Intersecting Streets.* Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle of less than 60 degrees.

(h) *Street Offsets.* Where there is an offset in the alignment of a street across an intersection, the offset of the centerlines shall not be less than 125 feet, except that this requirement may be modified by the planning director or his/her designee for arterial streets where because of special conditions such modification will improve the intersection.

(i) *Block Lengths.* Block lengths and widths shall not be more than 1,600 feet, except as hereinafter provided. Where a longer block will reduce the number of railroad grade crossings, major stream crossing, or where longer blocks will result in less traffic through residential subdivisions from adjoining business or industrial areas, the planning director or his/her designee may authorize block lengths in excess of 1,600 feet. Block widths shall be sufficient to allow two tiers of lots; except where single tiers of lots will facilitate

nonresidential development, the separation of residential and nonresidential development, or the separation of residential development from traffic arteries.

(j) *Cul-de-sacs*. Cul-de-sacs when permitted under this ordinance shall not be longer than 800 feet and shall be terminated by a circular right-of-way not less than 80 feet in diameter; provided, however, that this requirement may be waived where topographical conditions or land use relationships offer no practical alternative. (Ord. No. 402, § 3, 5-10-2001)

Section 14. Standards of Design--Lots.

- (a) *Frontage on Streets*. Each lot shall have frontage on a street with the following exceptions:
 - (1) Existing lots meeting the requirements set forth in section 4.401 of the Zoning Ordinance [appendix A]; or
 - (2) Proposed lots for use by one-family detached dwellings and which do not have frontage on a public street may be approved by the planning board after making the following findings:
 - A. Such lot is a minimum of two acres in size; and
 - B. Such lot is provided with access to a public street by means of an easement at least 15 feet in width for the exclusive use of the dwelling to be established on such lot; and,
 - C. Creation of such lot is made necessary by virtue of the fact that development of said property by conventional means (i.e., extension of public street) is impractical due to disproportionate costs of required improvements as compared to the relative value of lots created; and
 - D. Creation of such lots does not unduly restrict or impair future development or extension of an adequate system of public streets within the immediate area.
 - (3) Lots which do not have frontage on a public street may be approved by the planning board for uses such as substations, radio and television towers, repeater huts, water towers or tanks, sewage treatment facilities, and similar uses of a public or quasi-public nature when the planning board in its review finds that:
 - A. Adequate access to such facility will be provided by other means such as an easement or right-of-way; provided however, that in no case shall a right-of-way or easement of less than 15 feet in width be allowed;
 - B. The objectives of the land use plan and "Plan for Growth" will be better served by allowing such lot without road frontage; and
 - C. Such lots are adequate in size to meet the setback requirements established in the Zoning Ordinance [appendix A] for such use.

(4) Lots designed for one-family attached dwellings need not front on a street provided that all portions of the dwelling unit proposed for such lots shall be located within 300 feet of a public street that furnishes direct access to the property and that access to each such lot be made available via either a public right-of-way, or a private vehicular or pedestrian way owned by the individual lot owner in fee or in common ownership.

(5) Lots designed for one-family semidetached dwellings need not front on a street provided that at least one unit of each dwelling group has frontage on a street, and that access to each dwelling unit is made available via either a public right-of-way or a private vehicular or pedestrian way owned by the individual lot owner in fee or in common ownership. (Ord. No. 149, 10-8-1981)

(b) *Side Lines.* Side lot lines shall, as nearly as practicable, be at right angles to or radial to street lines. Where side lot lines intersect at the rear of the lot, the angle of intersection shall not be less than 60 degrees.

(c) *Minimum Sizes.* Lots for residential use shall meet the required width, depth and area requirements of any zoning ordinance [appendix A] which has legal jurisdiction for the section of the town in which the proposed subdivision is located, but where there is no zoning the following requirements shall apply:

- (1) Each lot shall have a minimum width at the building setback line of 60 feet and shall contain at least 9,000 square feet where the lot is to be used for one-family detached dwelling purposes;
- (2) Each lot shall have a minimum width of 33 feet and shall contain at least 5,750 square feet where the lot is to be used for one-family semidetached dwelling unit purposes;
- (3) Each lot shall have a minimum width of at least 20 feet and shall contain at least 2,000 square feet with a minimum development area of 3,150 square feet per dwelling unit where the lot is to be used for one-family attached dwelling purposes;
- (4) Each lot shall have a minimum width at the building setback line of 65 feet and shall contain at least 11,500 square feet where the lot is to be used for duplex purposes; and
- (5) Each lot shall have a minimum width at the building setback line of 65 feet and contain at least 9,000 square feet for the first family unit and 2,500 square feet for each additional family unit where the lot is to be used for multifamily purposes.

All lots shall be at least 100 feet in average depth.

(d) *Building Setback Lines.* Building setback lines shall be established on lots platted for residential occupancy. On arterial streets the setback line shall not be less than 50 feet, measured from the street right-of-way line at the front of the lot. On secondary streets lots shall have a setback line of not less than 50 feet, except that corner lots shall have a setback line of not less than 50 feet with progressively deeper setback lines on the three lots next to the corner lot until the standard setback line for the street has been complied with. On all other streets the setback line shall not be less than 50 feet, measured from the street right-of-way line at the front of the lot.

Section 15. Enforcement Provisions.

(a) After the effective date of this ordinance [September 29, 1972], the filing or recording of a plat of a subdivision by the register of deeds of Mecklenburg County without the approval of the Mint Hill Planning Board or the board of commissioners of the Town of Mint Hill, N.C., as required by this ordinance, shall be null and void.

(b) Any person who, being the owner or agent of the owner of any land located within the area of jurisdiction of this ordinance, transfers or sells such land by reference to a plat showing a subdivision of such land before such plat has been approved by the Mint Hill Planning Board or the board of commissioners of Mint Hill and recorded in the office of the register of deeds of Mecklenburg County shall, upon conviction, be guilty of a misdemeanor, whether or not said unapproved plat is specifically mentioned in the instrument of transfer used in the process of selling or transferring said land. Mint Hill, through the town attorney or other official designated by the board of commissioners of Mint Hill may enjoin such transfer or sale by action for injunction. This ordinance shall not affect the sale or transfer of any land, a plat of which was recorded prior to the effective date of this ordinance [September 29, 1972].

Section 16. Required Work on the Ground.

Except as hereinafter provided, improvements shall have been completed and approved in accordance with the standards of this section as specified below before any final plat of a subdivision shall be eligible for approval.

(a) *Required Improvements Based on Characteristics of Subdivision:*

1. Streets within residential subdivisions and which are designated as federal or North Carolina routes and streets within or abutting planned multifamily developments and streets within the area described shall be constructed in accordance with street construction standard I or street construction standard II. (Ord. No. 189, 4-25-1985)
2. Streets within residential subdivisions which are not designated as federal or North Carolina routes shall be constructed in accordance with street construction standard I or street construction standard II. (Ord. No. 189, 4-25-1985)
3. Streets in nonresidential subdivisions within the area and streets which are designated as federal or North Carolina routes shall be constructed in accordance with street construction standard I. Other streets in nonresidential subdivisions shall be constructed in accordance with street construction standard I.

(b) *Street Construction Standards:*

1. *Street Construction Standard I:* Minimum of 24 feet of paved surface with curb and gutter (minimum of four inches of BCBC, type H topped with one inch BCSC, or eight inches of A.B.C. topped with 2 1/2 inches BCSC). Streets with a width greater than 24 feet may be required under section 19(a)(2) or section 16(b)(1)A or by the planning board based on the type or classification of such street. This section shall not be construed to prevent the voluntary

installation of streets wider than the minimum established for a standard I street provided that the planning board approves the increased width of said street.

- A. *Grading:* Proposed street rights-of-way shall be graded to a minimum width of 50 feet.

Roadways shall be graded to a width sufficient to accommodate the width of pavement plus the curb and gutter required by this ordinance. Whenever streets wider than the minimum established by this ordinance are provided, the graded width of the roadway shall be increased to accommodate the wider street.

Longitudinal grades shall conform with the requirements of section 13(c) of this ordinance.

The transverse grade or crown shall be at a slope of three-eighths inch to one foot. The maximum slope for cut and fill embankment shall be one foot of vertical to every 1 1/2 feet of lateral distance. The entire subgrade shall be shaped to the lines and grades in accordance with this ordinance. All unsuitable material, boulders, and all vegetative matter shall be removed and replaced with suitable material for the entire length of the street or streets being constructed. All such areas shall be compacted to a depth of at least six inches below the finished surface to a density of 100 percent at optimum moisture content of that obtained by compacting a sample of the subgrade material in accordance with AASHTO-T99 (Standard Proctor Test). Proof that this standard is met shall be furnished by the developer to the county engineer certified by an independent testing firm. Fill embankments shall be formed of suitable material placed in successive layers of not more than six inches in depth for the full width of the cross sections including width of the slope area. No stumps, trees, brush, rubbish or other unsuitable materials, or substances shall be placed in the embankment. Each successive six-inch layer shall be compacted to a density of not less than 95 percent at optimum moisture content of that obtained by compacting a sample of the fill material in accordance with AASHTO-T99 (Standard Proctor Test). Proof that this standard is met shall be furnished by the developer to the county engineer certified by an independent testing firm. In addition to the foregoing compaction standards, the county engineer or his authorized agent may require that compaction be demonstrated by conventional field inspection methods such as proof rolling with a sheeps foot tamping roller, ten-ton three-wheel power roller, pneumatic tired roller or other methods deemed necessary by the county engineer. The foregoing standards apply to all new streets or extensions of existing streets within the corporate limits of the Town of Mint Hill except those streets maintained by the Department of Transportation of North Carolina.

- B. *Drainage:* Adequate drains shall be provided with sufficient inlets located at points of surface water accumulation to adequately intercept the surface flow. The collector systems to be designed for ten-year frequency and cross-drains designed for the 25-year frequency. Damage from backwater may occur and capacities of the cross drains will be increased as required. Systems are to be designed by standard engineering methods for runoff, and capacities shall be subject to review and approval of the county engineer.

All pipe shall be of adequate size and capacity to carry all storm water in its drainage area. The minimum size pipe shall not be less than 15 inches in diameter, regardless of the drainage area, and shall be laid on a grade of not less than 0.20 percent. The minimum cover for all pipe shall be two feet.

Subsurface drainage shall be provided where the ground water level is likely to be near surface. In capillary soils, the water level should be four to six feet below the surface to prevent the rise of moisture into the subgrade. Six-inch V.C. or corrugated metal pipe with open joints or perforations shall be used to lower ground water in low areas of the street.

All surface drainage pipe shall be C-75 or C-76 reinforced concrete pipe or corrugated metal pipe as approved by the county engineer.

No other type of pipe will be considered. All pipe shall be laid with the bell or groove up-grade and joint entirely interlocking.

Catch basins shall be built as shown on standard plan for catch basins as established by the county engineer. Improvised grates will not be acceptable. Catch basin walls shall be straight, with inside joints struck smooth and not exceeding generally one-half inch in thickness.

- C. *Roadway Base:* All roadways shall be improved with a base course to the required width of the roadway. The material used as a base course shall consist of bituminous concrete binder course, type H and shall be a minimum of four inches in thickness after compaction. In lieu of four inches of BCBC, type H, eight inches of stone (A.B.C.) may be utilized. Either type material utilized as a roadway base shall conform in all respects to specifications established for such materials in the manual "Standard Specifications for Roads and Structures, North Carolina Department of Transportation." Base courses consisting of BCBC shall be compacted to 90 percent of the maximum theoretical density; base courses consisting of A.B.C. shall be compacted to a density equal to 100 percent of that obtained by compacting a sample in accordance with AASHTO T180. Proof that these standards are met shall be furnished by the developer to the county engineer certified by an independent testing firm.
- D. *Roadway Surface:* All streets shall be topped with a roadway surface as herein described for the width of the roadway as required by this ordinance under section 16(b)1. In the case of full-depth asphalt, the surface course as herein described or in the case of crushed stone topped with a 2 1/2-inch surface course as herein described, the final one inch of the surface course shall be applied only after the county engineer has granted final approval on the roadway base course and associated improvements required by this ordinance (including the first 1 1/2 inches of I-2 when crushed stone is used as a base course) and that said street has qualified as described in section 20 of this ordinance for acceptance for maintenance by the favorable vote of a majority of the members of the board of commissioners of the Town of Mint Hill. The acceptance for maintenance of a new street under this section shall be contingent upon application of the surface course by

the developer and approval of this surface course in accordance with the specifications contained in this section by the county engineer.

The base course as described in section 16(b)1C above shall be properly prepared before the surface course is applied. A tac coat in accordance with section 605 of the Standard Specifications for Roads and Structures, North Carolina Department of Transportation, shall be applied to the base course except in such cases where it is deemed to be unnecessary by the county engineer.

The surface course shall consist of one inch of plant mix asphalt, type I-2 (BCSC) when applied over a base course of four inches of BCBC, type H. The surface course over eight inches of stone (A.B.C.) shall consist of 2 1/2 inches of plant mix asphalt, type I-2. In either type pavement structure, this surface course shall be compacted to a density of 95 percent of the laboratory density as determined by the Marshall Method of testing. Proof that this standard is met shall be furnished by the developer to the county engineer, certified by an independent testing firm.

E. *Sidewalks:* Sidewalks shall be required as follows:

Nonresidential subdivisions: Sidewalks shall be constructed on both sides of existing arterial streets and secondary streets and extensions thereof. Sidewalks shall be required on one side of arterial and secondary streets where the street will not function, at the time the subdivision is approved, as an arterial or secondary street because of its lack of continuity.

Residential subdivisions: Sidewalks shall be constructed on both sides of existing arterial and secondary streets and extensions thereof. Sidewalks shall be constructed on one side of arterial and secondary streets where the street will not function, at the time the subdivision is approved, as an arterial or secondary street because of its lack of continuity. Sidewalks shall be constructed on one side of all classes of streets with the exception of the cul-de-sac "bulb" provided that the sidewalk shall be located on the side of the street first subdivided. (The side of the street first subdivided shall mean that side of the street for which a preliminary subdivision plan is first approved after the effective date of this section):

Sidewalks shall be constructed on both sides of the following streets:

Streets with such continuity through a subdivision or with such potential continuity through subdivision and adjacent areas that they may serve as general traffic access streets for the neighborhood.

Streets providing access to existing elementary schools, junior schools, high schools, colleges, and official sites for such schools; and streets that provide access to existing places of public assembly.

The classification of streets in determining the requirement of sidewalks shall be

subject to interpretation by the planning director or his/her designee and/or the planning board.

Location of Sidewalks: The outer edge of the sidewalk shall be located at the street right-of-way when the street functions as an arterial, secondary or general traffic access street. The inner edge of the sidewalk shall be located a minimum of five (5) feet from the curb. (Ord. No. 386, § 3, 7-20-00)

Material and construction: Sidewalks shall be constructed of not less than 2500 P.S.I. concrete and shall be five feet wide, four inches thick, constructed on an adequately graded base, except that where the sidewalk crosses a driveway it shall be six inches thick. The surface of the sidewalk shall be steel trowel and light broom finished and cured with an acceptable curing compound. Tooled joints shall be provided at intervals of not less than five feet and expansion joints at intervals of not less than 30 feet. The sidewalk shall have a lateral slope of one-quarter inch per foot.

Elevation: The elevation of the sidewalk shall be related to the elevation of the crown of the adjacent roadway. The sidewalk shall be not less than six inches or more than 18 inches above the roadway crown, except that cross-walk elevations shall be properly related to existing or prospective roadway curb, and except that where excessive natural grades make this requirement impractical the county engineer may authorize a suitable elevation for the sidewalk. (Ord. No. 365, § 9, 12-10-1998)

2. *Street Construction Standard II:* Minimum of 24 feet of paved surface with curb and gutter (minimum of five inches of 3600 psi single course nonreinforced Portland cement concrete pavement on a prepared base, in accordance with section 700 of the Standard Specifications for Roads and Structures, North Carolina Department of Transportation). Streets with a width greater than 24 feet may be required under section 19(a)(2) or section 16(b)(2)A or by the planning board based on the type or classification of such street. This section shall not be construed to prevent the voluntary installation of streets wider than the minimum established for a standard II street provided that the planning board approves the increased width of said street.
 - A. *Grading:* Grading shall be performed as required by section 16(b)(1)A of this ordinance.
 - B. *Drainage:* Drainage shall be provided as required by section 16(b)(1)B of this ordinance.
 - C. *Roadway Base:* The base shall be prepared in accordance with section 700-6 of the Standard Specifications for Roads and Structures, North Carolina Department of Transportation. The surface of the base shall be damp at the time the concrete is placed.

After the concrete has been spread, it shall be uniformly vibrated. Vibrators for full width vibration of concrete paving slabs may be either the surface pan type or the internal type with either immersed tube or multiple spuds. They may be attached to the spreader or the finishing machine, or may be mounted on the separate carriage. They shall not come in contact with the joint, load transfer devices, subgrade, or side forms. Machine mounted vibrators shall be either stopped or removed from contact with the concrete whenever the

forward motion of the machinery is stopped.

Acceptance sampling and testing of paving concrete shall be the responsibility of the developer as directed by the engineer. The developer shall furnish all materials to be tested.

- D. *Roadway Surface:* All streets shall be topped with a roadway surface as herein described for the width of the roadway as required by this ordinance under section 16(b)(2). The composition and design of the 3600 psi concrete shall be in accordance with section 900 of the Standard Specifications for Roads and Structures, North Carolina Department of Transportation. The required slump shall not exceed four inches. The concrete shall be placed only in the presence of an authorized representative of Mecklenburg County Engineering and all testing shall be directed as required by the engineer. The concrete shall be spread uniformly over the entire area between the forms without segregation. Spreading shall be done with a mechanical spreader except where hand methods are necessary due to pavement design, equipment breakdown, or other emergency.

Following the finishing of the pavement by the screed and float and the checking with the straight edges, the surface of the pavement shall be further finished by burlap dragging, or other acceptable method which will produce a uniform surface texture acceptable to the engineer. Immediately after finishing operations have been completed and surface water has disappeared, all exposed surfaces of the pavement shall be cured in accordance with Mecklenburg County standards.

All joints shall be constructed in accordance with the joint standards adopted by the Town of Mint Hill. (Ord. No. 189, 4-25-1985)

- E. *Sidewalks:* Sidewalks shall be constructed as required by section 16(b)(1)E of this ordinance.

(c) *Provision for Installation of Cable TV:* It shall be the responsibility of the developer of any new subdivision to notify the cable television company holding a valid franchise for cable television service of plans for the subdivision as soon as practical after preliminary plans of the proposed subdivision have been approved by the planning board. This is in order that the cable television company may provide the facilities required by the cable television franchise ordinance simultaneously with the installation of other utilities within the development. Easements necessary to accommodate such facilities shall be made available to the cable television company by the developer.

(Ord. No. 12, 8-23-1973; Ord. No. 127, 2-26-1981; Ord. No. 189, 4-25-1985)

Section 17. Inspection.

(a) The county engineer shall be notified 24 **business** hours in advance of the work to be started so that all necessary inspections of the work may be made.

(b) The inspector shall be allowed access to all parts of the work and shall be furnished with every reasonable facility to ascertain whether or not the work as performed is in accordance with the specifications.

(c) Inspection shall not relieve the contractor from any obligation to perform all of the work strictly in accordance with the specifications.

(d) In case of any disputes arising as to the material furnished or the manner of performing the work, the inspector shall have authority to reject materials or suspend work until the question at issue can be referred to and decided by the county engineer. The contractor shall remove any work or material condemned as unsatisfactory by the authorized inspector and shall rebuild and replace same to the standard required by the specifications, all at his own expense.

Section 18. Street Markers and Barricades.

(a) Standard Mecklenburg County street markers shall be only installed at one corner of all street intersections. The design, material, location and installation of the signs shall be in accordance with the standards specified by the Mecklenburg County Engineering and Building Standards Department.

(b) Barricades shall be only installed at the end of all dead-end streets, except cul-de-sac streets, which have been improved with a permanent turn-around as required by this ordinance. Such barricades shall have a minimum length of 25 feet, plus end sections. Design, material and installation of the barricades shall be in accordance with the standard plan on file at Mecklenburg County Engineering and Building Standards Department. Reflective material shall be placed on the barricade in accordance with the standard plan. (Ord. No. 386, § 4, 7-20-00; Ord. No. 480, § 5, 1-13-2005)

Section 19. Modification of Requirements; Bond.

(a) In [a] subdivision adjoining already established roads which have been improved with a paved roadway, the requirements of section 16 of this ordinance apply to the existing streets or roads except as follows:

- (1) Those requirements that would necessitate the general removal and reconstruction of established permanent pavements shall not be applicable.
- (2) Where the adjoining established street is a part of the North Carolina Department of Transportation's street system the adjoining street shall be improved in accordance with either the requirements of section 16 of this ordinance or the requirements of the North Carolina Department of Transportation, whichever establishes the higher standard.
- (3) Required dimensional standards which, if strictly complied with, would involve minor physical changes that would not significantly improve the roadway may be waived by the county engineer.

(b) In subdivisions adjoining already established streets or roads which have not been improved with a paved roadway, the requirements of section 16 of this ordinance shall apply to the existing streets or roads as closely as may reasonably be required by the county engineer considering the existing condition of the road, the extent of area to be subdivided and the cost of required improvements in relation to the comparative benefits to accrue to the subdivider and the other owners of property on both sides of the street or road.

(c) Where a subdivider elects to establish a roadway divided with a center strip, the outer margins of the roadways on each side of the center strip divider shall not be less than 12 feet distant from the street right-of-way line; and the width of the roadway on each side of the center strip divider shall not be less than the following (not including shoulders and side ditches where used):

Where street construction standard I and street construction standard II roadways are required as stated in section 16: 19-foot widths. (Ord. No. 189, 4-25-1985)

The center strip shall be designed to carry only surface drainage water originating on the roadway. Center strips which contain any other type of waterway will not be acceptable.

Except for specific provisions to the contrary contained in the [this] section, the requirements of section 16 of this ordinance shall apply to divided roadways and related street rights-of-way.

(d) Where the improvements required by section 16 of this ordinance have not been completed prior to the submission of the final subdivision plat for approval, the approval of the plat shall be subject to the owner filing a surety bond, irrevocable letter of credit, certificate of deposit, stock, cash or other approved form of surety with the Town of Mint Hill Planning Board in an amount determined by the county engineer, with surety sufficient to guarantee the installation of the required improvements. In cases where cash is offered as surety, such cash shall be filed directly with the Town of Mint Hill for proper handling and accounting procedures. (Ord. No. 127, 2-26-1981)

(e) All subdivision construction, whether or not guaranteed by a surety bond or irrevocable letter of credit or other approved form of security, shall be inspected at all phases by the county engineer or by an authorized member of his department, accompanied by the street superintendent/maintenance foreman of the Town of Mint Hill. Notice of all such inspection requests by the developer shall be given to the county engineer's office at least 24 hours prior to the date such inspection is requested to be made. Upon completion of all the improvements required by this ordinance, written notice shall be given by the developer to the county engineer. The county engineer, accompanied by the street superintendent/maintenance foreman shall inspect said improvements and within 30 days either authorize the release of the security given or indicate to the developer any areas of noncompliance. In no case shall securities be released prior to the installation of the improvements required by this ordinance except that the phased release of a bond or other form of security may be allowed in accordance with "Construction Standard Details of Mecklenburg County," section I--Bond Policy, provided such phased release is recommended by the planning director or his/her designee of the Town of Mint Hill, or as provided for in section 19(f)(1) below.

(f) For subdivisions being developed in phases, and upon which lots structures are being constructed, or are to be constructed, a bond, letter of credit, stocks or certificate of deposit filed with the county engineer in the amount determined by the county engineer, shall be required thereon, or the bond required by subsection (d) of this section will be retained, in order to ensure that such completed streets shall be in acceptable condition at the time such subsequent phases of development are completed.

(1) In the event that there is no definite beginning date for the commencement of future phases and it would be, in the opinion of the planning director or his/her designee, unreasonable to require the continuation of securities, the county engineer may release the posted securities. This may be

done only after the county engineer and the street superintendent/maintenance foreman of the Town of Mint Hill have determined that all work guaranteed by the securities filed has been completed within the subject phase in compliance with the standards set forth in this ordinance, and that barricades approved by the county engineer in accordance with section 18(b) have been installed at the termination point of any street leading into future phases of the development.

- (2) All subsequent development of future phases or development of adjoining tracts whether or not such phases are shown on the preliminary plat required by section 9 of this ordinance, shall not be allowed nor shall the removal of barricades required by section 18(b) of this ordinance be allowed and no access to adjoining property for development purposes shall be allowed via previously completed sections of a subdivision within the Town of Mint Hill until the developer shall first have filed a bond or irrevocable letter of credit or other form of security as described in subsection (f) above with the county engineer in an amount determined by the county engineer. Said bond shall be a maintenance bond to guarantee the maintenance of all streets to be used for access to future phases or adjoining tracts during development of said tracts or phases. For determining the amount of the bond required by this section, the county engineer shall consider the following:
- A. The length of streets in the existing subdivision or previously completed sections of the subject subdivision from the new subdivision site out to the nearest arterial street which is most likely to be used to provide access to the site;
 - B. The condition of any existing streets which are likely to be utilized for access to the property being developed;
 - C. Any existing defects noted by the street superintendent/maintenance foreman of the Town of Mint Hill as provided for in [sub]section (f)(3) below;
 - D. Number of lots in the proposed development.
- (3) The maintenance bond required by this section shall not be released until the phase under development has met the criteria for acceptance of streets as outlined in section 20 of this ordinance and it has been determined by the county engineer and the street superintendent/maintenance foreman of the Town of Mint Hill that streets which were used for access to future phases or adjoining tracts are in an acceptable condition and that any damage suffered by said streets has been repaired. For the purpose of this section, any damage suffered by a street used for access to property being developed shall be presumed to have been caused by construction traffic except any defects noted by the street superintendent/maintenance foreman of the Town of Mint Hill as herein provided for. The street superintendent/maintenance foreman shall on request from the developer inspect existing streets likely to be used by construction traffic and document the condition of said streets prior to commencement of development of said subdivision. Any existing defects in streets will be noted and the developer will not be responsible for repair of such existing defects.

(Ord. No. 35, §§ 2--4, 3-25-1976; Ord. No. 127, 2-26-1981; Ord. No. 189, 4-25-1985)

Section 20. Acceptance of Streets Within Subdivision.

(a) The approval of a preliminary or final plat by the Mint Hill Planning Board shall not constitute the acceptance by the Town of Mint Hill of any street, public utility line, or other public facility or ground shown upon such plat.

(b) The Town of Mint Hill shall not maintain, lay out, open, improve, grade, pave or light any street or authorize the laying of water mains, sewers, connections, or other facilities or utilities in any street unless such street has been accepted as a public street by a resolution adopted by the board of commissioners of the Town of Mint Hill in a regular or duly called special session.

(c) The board of commissioners of the Town of Mint Hill shall not adopt any resolution accepting a new street unless:

- (1) The board has received a written request from the subdivider or from a majority of the property owners along a street that such street be accepted as a public street for maintenance by the Town of Mint Hill.
- (2) The board receives a report from the planning director or his/her designee that:
 - A. Either final approval of said street or streets was granted by the Mecklenburg County engineer at least one year prior to the time of such request for maintenance or that such street or streets existed as a public street prior to the effective date of this ordinance [September 29, 1972] and as such have functioned as a street or streets for at least one year; provided, however, that this one-year testing period may be waived by the board of commissioners in cases where the development density standard set forth in B. below has been met and the board finds that the street or streets requested for maintenance would suffer damage from further delay of application of the final surface course required only under street construction standard I; and
 - B. At least 50 percent of the lots fronting on the street or streets requested for maintenance have a habitable dwelling unit located thereon; and
 - C. That any defects which have appeared in new streets during the one-year waiting period or in the case of existing streets, any defects identified by the street superintendent (maintenance foreman) of the town at the time such request for maintenance is made have been repaired.
- (3) The board determines that such street corresponds in its location and aligns with a street shown on a preliminary subdivision plat formally approved by the planning board of Mint Hill or that said street was established as a public street prior to the adoption of this ordinance and therefore not subject to this ordinance.

(Ord. No. 35, § 5, 3-25-1976; Ord. No. 127, 2-26-1981; Ord. No. 189, 4-25-1985)

Section 21. Variances.

Where, because of the size of the tract to be subdivided, its topography, the condition or nature of

adjoining areas or the existence of other unusual physical conditions, strict compliance with the provisions of this ordinance would cause an unusual and unnecessary hardship on the subdivider, the planning board may vary the requirements set forth herein. In granting variances, the planning board may require such conditions as will secure, insofar as practicable, the objectives of the requirement varied. Any variance authorized by the planning board shall be entered in its minutes, and a copy of the variance shall be sent to:

- (1) Mecklenburg County Engineering and Building Standards Department
- (2) Mayor and Board of Commissioners of the Town of Mint Hill
- (3) Mint Hill town manager and
- (4) Mint Hill town attorney.

In the event the planning board denies any request for a variance, the subdivider may appeal such denial to the board of commissioners of the Town of Mint Hill provided that such denial is appealed as prescribed herein. Within ten days of the denial [of] his request for a variance, the subdivider shall give notice of appeal in writing to the planning board and to the town clerk which notice shall contain six copies of his original request for a variance and six copies of all documents and maps filed by him with the planning board.

Upon receipt of the notice of appeal, the town clerk shall deliver one copy thereof to the mayor, one copy to each member of the board of commissioners, and one copy to the town attorney. The town clerk shall place the appeal for hearing on the agenda of a regularly scheduled meeting of the board of commissioners within 30 days of the receipt of the notice. As soon as the date has been set for a hearing on the appeal, the town clerk shall send written notice thereof to the members of the planning board and to the subdivider.

At the hearing before commissioners, the subdivider or his representative will be heard, the members of the planning board will be heard, and any other interested citizen of the Town of Mint Hill may be heard. The concurring vote of a majority of the members of the board of commissioners present, provided a quorum is present, shall be necessary to reverse any order, requirement, decision or determination of the planning board, or to decide in favor of the appellant in any manner upon which it is required to pass or to grant a variance from the provisions of this appendix. The board of commissioners shall keep minutes of its proceedings showing the vote of each member upon each question and the absence or failure of any member to vote. The disposition of each appeal shall be by recorded resolution indicating fully the findings of the commission, all of which shall be public record. A certified copy of any resolution reversing the planning board and granting a variance shall be sent to the Mecklenburg County Engineering and Building Standards Department.

(Ord. No. 386, § 5, 7-20-00)

Section 22. Separability.

If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to such section, paragraph, subdivision, clause or provision so adjudged; and the remainder of this ordinance shall be deemed valid and effective.

Section 23. Effective Date.

This ordinance shall take effect at 12:01 a.m., September 29, 1972.