

MEMORANDUM

To: Mayor and City Council
From: Ronnie Kurtz, Planner II
Date: January 28, 2019
Subject: Amendment to City of Dunwoody Ordinances
Chapter 16—Storm Water Maintenance and Preliminary Plat Procedure

ITEM DESCRIPTION

Request to consider text amendment to the land development code (Chapter 16). The proposal would: 1) empower the Public Works Director to approve city maintenance for storm water management facilities in single-family residential subdivisions; 2) empower the Community Development Director to approve final plats; and 3) change references to "sketch plat" to "preliminary plat."

DISCUSSION

Storm Water Management Facilities

As code currently reads, the Zoning Board of Appeals is empowered to approve city maintenance responsibility for storm water management facilities in single-family residential subdivisions. The City's Public Works Department is the party that would ultimately be responsible for the operation of any of these accepted residential storm water management facilities. For this reason, any such acceptance should be reviewed and approved by the Public Works Director. The option to appeal the Director's decision to the Mayor and City Council is provided to ensure elected representatives of the community are involved in the decision, as the acceptance of this type of infrastructure raises operational costs, and thereby effects all City residents.

SUMMARY OF CHANGES FROM 01.14.19 MEETING

1. Requirement that City Council hear appeal "within 30-days of the public works director's decision" changed to "within 30-days of the receipt of the appeal."

Plat Procedure

As code currently reads, the City Manager must sign all final plats before they may be approved and recorded. The City Manager is removed from the land development process and is usually not informed on the nature of developments at this level of detail. When signing final plats, the City Manager typically defers to the Community Development Director's discretion as to if final approval is warranted. Thus, the requirement of the City Manager's signature adds an unnecessary step to the process without adding any extra layer of accountability.

In the context of signing final plats, the proposed amendment replaces all references to "City Manager" with "Community Development Director." This change thereby empowers the Community Development Director, who deals intimately with all land development projects as a function of his position, to be the final authority on the approval of final plats.

Additionally, Chapter 16 makes references to "sketch plats;" this appears to be a holdover from the DeKalb County Zoning Code, as the City does not require the submittal of sketch plats when recording new land development. Instead, the City requires the submittal of preliminary plats, which call for a more refined and detailed exposition of the proposed development. To clarify any confusion, all references to "sketch plat" are replaced with "preliminary plat."

RECOMMENDATION

Staff recommends Mayor and City Council approve the attached draft changes to Chapter 16, as prepared.

Attachments:

Chapter 16, with edits

STATE OF GEORGIA

CITY OF DUNWOODY

ORDINANCE NO. 2019-

AN ORDINANCE TO AMEND CHAPTER 16 (LAND DEVELOPMENT REGULATIONS); TO EMPOWER THE PUBLIC WORKS DIRECTOR TO APPROVE CITY MAINTAINANCE FOR STORM WATER MANAGEMENT FACILITIES IN SINGLE FAMILY RESIDENTIAL SUBDIVISIONS; TO EMPOWER THE COMMUNITY DEVELOPMENT DIRECTOR TO APPROVE FINAL PLATS; TO CHANGE REFERENCES FROM “SKETCH PLAT” TO “PRELIMINARY PLAT”; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, the Mayor and City Council of the City of Dunwoody are empowered to regulate signs within the City of Dunwoody; and

WHEREAS, Mayor and Council wish to empower the public works director to approve city maintenance for storm water management facilities in single family residential subdivisions so as to expedite and streamline the process;

WHEREAS, the Mayor and Council wish to empower the community development director to approve final plats so as to streamline the process; and

WHEREAS, the Mayor and Council wish to replace references to “sketch plats” with “preliminary plats” to provide clarity and avoid confusion.

THEREFORE, THE MAYOR AND COUNCIL OF THE CITY OF DUNWOODY, GEORGIA HEREBY ORDAIN:

SECTION I: Subsection 16-95 of Chapter 16 is hereby amended to read as follows:

Sec. 16-95. - Inspections and maintenance.

(a) *Inspections during construction.*

- (1) Periodic inspections of the stormwater management system construction must be conducted by the community development department or conducted and certified by a professional engineer approved by the community development director. Construction inspections must utilize the approved stormwater management plan for establishing compliance. All inspections must be documented with written reports that contain the following information:
 - a. The date and location of the inspection;
 - b. Whether construction is in compliance with the approved stormwater management plan;

- c. Variations from the approved construction specifications; and
 - d. Any other variations or violations of the conditions of the approved stormwater management plan.
- (2) If any violations are found, the applicant must be notified in writing of the nature of the violation and the required corrective actions.
- (b) *Final inspections and as-built plans.* Upon completion of a project, and before a certificate of occupancy may be granted, the applicant is responsible for certifying that the completed project is in accordance with the approved stormwater management plan. All applicants are required to submit actual "as-built" plans for any stormwater management facilities or practices after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and practices and must be certified by a professional engineer. A final inspection by the city is required before the release of any performance bonds or financial guarantees.
- (c) *Long-term maintenance and inspections.*
- (1) Stormwater management facilities and practices included in a stormwater management plan which are subject to an inspection and maintenance agreement must undergo ongoing inspections to document maintenance and repair needs and ensure compliance with the requirements of the agreement, the plan and this division.
 - (2) A stormwater management facility or practice must be inspected on a periodic basis by the responsible person in accordance with the approved inspection and maintenance agreement. In the event that the stormwater management facility has not been maintained and/or becomes a danger to public safety or public health, the public works director must notify the person responsible for carrying out the maintenance plan by registered or certified mail to the person specified in the inspection and maintenance agreement. The notice must specify the measures needed to comply with the agreement and the plan and must specify the time within which such measures must be completed. If the responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the city may pursue all available enforcement actions and penalties.
 - (3) Inspection programs by the city may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in stormwater management facilities; and evaluating the condition of stormwater management facilities and practices.
- (d) *Right-of-entry for inspection.* The terms of the inspection and maintenance agreement must provide authority for authorized city or city contracted officials to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when the city has a reasonable basis to believe that a violation is occurring or has occurred and to enter when necessary for abatement of a public nuisance or correction of a violation.
- (e) *Maintenance responsibilities.*

- (1) Except as otherwise provided in this section, commercial and/or multifamily residential property owner is responsible for the maintenance of the stormwater management facilities during grading, construction, and following final approval of the completed project. This maintenance and certification obligation is binding on all future owners, successors and assigns of the property.
- (2) Stormwater management facilities in single-family residential subdivisions constructed under permits issued prior to the adoption of the city ordinance assigning maintenance responsibility will not be accepted for city maintenance unless individually approved by and at the discretion of the public works director zoning board of appeals and suitable access easements are provided. The public works director shall make a decision within 30-days of submittal of the request. The applicant shall be empowered to appeal the decision of the public works director to the Mayor and City Council, which shall hear the appeal within 30-days of receipt of the appeal.
- (f) *Records.* Parties responsible for the operation and maintenance of a stormwater management facility must provide records of all maintenance and repairs to the public works director.
- (g) *Failure to maintain.* If a responsible person fails or refuses to meet the requirements of the inspection and maintenance agreement, the public works director, after 30 days written notice (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24-hour notice is deemed sufficient), may correct a violation of the design standards or maintenance requirements by performing the necessary work to place the facility or practice in proper working condition. The city may assess the owners of the facility for the cost of repair work, which will be a lien on the property, and may be placed on the ad valorem tax bill for such property and collected in the ordinary manner for such taxes.
- (h) *Special drainage system maintenance requirements.*
 - (1) Pursuant to all applicable city and county law, trash, garbage, construction materials, construction by-products or other debris may not be deposited in any part of the drainage system.
 - (2) No restriction or barriers, including fences, may be placed in the drainage system or special flood hazard areas without first obtaining a development permit. When on-site or off-site debris has accumulated within a special flood hazard area in such a manner as to interfere with the free flow of water so as to increase the risk of hazardous inundation of upstream properties adjacent to special flood hazard areas, the community development director must require the owner of the property where this debris was generated, if its source can be identified, to clear and remove the debris so as to permit the free flow of water.
 - (3) No impoundment of water which retains in excess of 0.5 acre-foot of runoff may be removed without first obtaining a development permit, which may only be issued after competent engineering studies provided by the applicant show that this removal will not adversely affect downstream properties.

(Ord. No. 2013-10-14, 1(Exh. A § 16-7.50), 10-14-2013; Ord. No. 2015-01-04, § 1, 1-26-2015)

SECTION II: Subsection 16-187 of Chapter 16 is hereby amended to read as follows:

Sec. 16-187. - Preliminary plat procedures.

- (a) *Pre-application conference.* Before filing the preliminary plat for a subdivision for review and approval, the applicant must meet with the community development director or his designee to present a generalized concept plan for the proposed project and to discuss the procedure for approval of a subdivision plat and the requirements as to general layout of streets, reservations of open space, street improvements, drainage, sewerage, fire protection, and similar matters, as well as the availability of existing infrastructure and services. This conference will allow early evaluation of the applicant's intentions and coordination with the comprehensive plan and the zoning ordinance. This conference will also allow city officials to discuss with the applicant the necessary regulations that will properly accomplish the project.
- (b) *Application and ~~sketch~~preliminary plat required.* The owner of the land where the proposed development is to occur, or his authorized agent, must file a ~~sketch~~preliminary plat with the department of community development along with an application for approval. The application must:
- (1) Be made on forms prepared by the department of community development;
 - (2) Be accompanied by three copies of the ~~sketch~~preliminary plat, plus one electronic/digital copy, which must be prepared by a registered civil engineer, surveyor, architect, or landscape architect, as described in these regulations and complying in all respects with these regulations;
 - (3) Be accompanied by an application fee in the amount set by the city council; and
 - (4) Include the name, address and telephone number of an agent who is authorized to receive all notices required by these regulations.
- (c) *Plat information.* The following information must be shown on the ~~sketch~~preliminary plat:
- (1) *Boundary lines.* Perimeter boundary of the overall tract, bearings and distances, referencing the legal point of beginning;
 - (2) *Streets on or adjacent to tract.* Name, right-of-way width, and location of streets on and adjacent to the tract, and any existing railroad, sidewalk, trail, or bike lane;
 - (3) *Contour data.* Topographic contour data at no more than two-foot elevation intervals. The source of this data must be written on the plat. Existing contour data from the city geographic information system department may be used where available;
 - (4) *Tree survey.* A tree survey, in compliance with article II, division 6, or tree sample calculations where allowed by the city arborist which may be submitted as a separate plan;
 - (5) *Historic resources.* Any building, structure, site or district identified as historic by the county historic preservation commission, the county historic resources survey, the city historic preservation commission, if one is established, the comprehensive plan, by listing on the Georgia or National Register of Historic Places, or by listing as a National Historic Landmark;

- (6) *Natural features on tract.* Other conditions on the tract such as stream buffers, state waters, cemeteries, wetlands, existing structures, special flood hazard areas (where available), rock outcroppings, and archeological resources;
- (7) *Soils.* Location of soils as shown on Soil Survey of DeKalb County, Georgia, by the United States Department of Agriculture;
- (8) *Geographical data.* Numerical and graphic scales, north arrow, land lot and district numbers and lines, city and county names and limit lines;
- (9) *Prior subdivisions.* Name and reference of any formerly recorded subdivision crossing any of the land shown on the plat;
- (10) *Zoning district.* Show zoning district, case number and conditions of zoning;
- (11) *Permits.* Show any special administrative permit number, special land use permit number, or zoning board of appeals case number and conditions;
- (12) *Variances.* Show any administrative variance approvals;
- (13) *Septic tanks.* Show existing septic tank and drain field location or note absence;
- (14) *Sewers.* Show size and location of sanitary sewer mains available;
- (15) *Sewer easements.* Show a sanitary sewer easement with a minimum width of 15 feet for lines not within public rights-of-way, unless otherwise required by the county water and sewer department;
- (16) *Water mains.* Show size and location of water mains and fire hydrants;
- (17) *Water main easements.* Show a water main easement with a minimum width of 15 feet for county maintained lines not within right-of-way, unless otherwise required by the county water and sewer department;
- (18) *Fire hydrants.* Show new fire hydrants and eight-inch fire lines;
- (19) *Wetlands.* Provide wetlands determination from U.S. Army Corps of Engineers;
- (20) *Receiving waters.* Provide distance to and name of receiving waters;
- (21) *Certificate of conformity.* Certification by the applicant that no lots platted are non-conforming or will result in any non-conforming lots;
- (22) *Bury pits.* Show location of any existing inert waste bury pits;
- (23) *Seal.* All sheets of plats must be sealed by a professional engineer, architect, surveyor, or landscape architect currently registered in the state;
- (24) *Title.* The title under which the proposed subdivision is to be recorded, if known, with the name of the property owners and designers and the date of the plat;
- (25) *Street names.* The names of all proposed streets;
- (26) *Rights-of-way.* Street rights-of-way and widths indicated, including any necessary right-of-way required for improvements as shown on the comprehensive transportation plan;
- (27) *Sidewalks.* All proposed sidewalk and bike lane locations;

- (28) *Lots*. Lot lines, lot numbers, block letters, and the total number of proposed lots within the development;
 - (29) *Dedications*. Sites, if any, to be dedicated or reserved for common areas, public parks, open space, schools, playgrounds, multi-use trails, or other public uses, together with the purpose and the conditions or limitations of these dedications, if any;
 - (30) *Yards*. Minimum building setback lines as required under the yard requirements of the zoning ordinance;
 - (31) *Zoning conditions*. All conditions of zoning and proposed deed restrictions must be recited on the ~~sketch~~preliminary plat;
 - (32) *Corner lots*. Show that corner lots must have an extra width of not less than 15 feet more than required for interior lots for the zoning district within which they are located;
 - (33) *Transitional buffers*. Show transitional buffers, if any, and any required screening fencing;
 - (34) *BMPs*. Show conceptual location of stormwater management and water quality BMP facilities on ~~sketch~~preliminary plat;
 - (35) *Covenants*. Indicate whether the proposed subdivision will be subject to private covenants and whether a homeowner's association will be established;
 - (36) *Fencing*. Show any required fencing around detention ponds, if required; and
 - (37) *Electrical service*. Show the location of electrical service.
- (d) *Additional Information*. The following additional information must be submitted with the ~~sketch~~preliminary plat:
- (1) *Owner consent*. The property owner must consent in writing to the proposed development in a consent affidavit provided by the community development director with the application;
 - (2) *Taxes*. Provide statement from the county tax commissioner certifying that all ad valorem taxes on the property have been paid;
 - (3) *Location*. A small map of the city depicting the subdivision location within the city;
 - (4) *Vicinity map*. Vicinity map at a scale of 400 feet to one inch showing the location of the tract with reference to surrounding properties, streets, municipal boundaries, and streams within 500 feet of the tract, and showing zoning districts of adjoining property;
 - (5) *Adjacent properties*. Names of adjoining property owners and the zoning classification of adjacent properties; and
 - (6) *Engineer*. Name, address and phone of developer and engineer on plat.
- (e) *Scale*. ~~Sketch~~Preliminary plats must be prepared at an appropriate scale of not more than 100 feet to one inch. Maximum sheet size may not exceed 24 inches by 36 inches, with a minimum text size of 0.08 inches.
- (f) *Application submittal*.

- (1) An application will be considered complete and ready for processing only when it fully complies with the requirements of this article.
- (2) If the application and ~~sketch~~preliminary plat are not accepted, the community development director must inform the applicant of the deficiencies and request the applicant to resubmit the application and ~~sketch~~preliminary plat with the additional information.

(g) *Referral of preliminary plat for review.*

- (1) Upon official acceptance of the application and the preliminary plat, the community development department, public works, and any other city or county department the community development director determines should be consulted for the particularities of the proposed subdivision, shall review the preliminary plat. As part of its review, each such department and receiving entity must make comments and recommendations regarding any required changes necessary to comply with all applicable regulations.
- (2) Once the community development director has received each department's comments and recommendations, the community development director must either notify the applicant that the ~~sketch~~preliminary plat has been approved or notify the applicant that revisions to the ~~sketch~~preliminary plat are required.
- (3) If a preliminary plat is not approved within 180 days of the official acceptance of the application, the application and preliminary plat is considered withdrawn without further action by the city. The community development director must approve the preliminary plat if the application and preliminary plat conform to all requested revisions, the requirements of this Code and state law and must deny the preliminary plat if the application and preliminary plat do not conform to all requested revisions, the requirements of this Code or state law.

(Ord. No. 2013-10-14, 1(Exh. A § 16-13.10), 10-14-2013; Ord. No. 2015-01-04, § 1, 1-26-2015)

SECTION III: Subsection 16-88 of Chapter 16 is hereby amended to read as follows:

Sec. 16-188. - Public notice.

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

(Ord. No. 2015-01-04, § 1, 1-26-2015)

SECTION IV: Subsection 16-189 of Chapter 16 is hereby amended to read as follows:

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

- (a) Subdivisions eligible for processing as major subdivisions are subject to compliance with all applicable land development regulations, including the design and improvement standards contained in article IV of this chapter.
- (b) Approval criteria.
 - (1) The community development director may not approve a preliminary plat unless it is found that:
 - a. Provisions have been made for a water supply system that is sufficient in terms of quantity, dependability, and quality for purposes of health, emergency, and adequate fire protection for the subdivision proposed;
 - b. If a public sewage system is proposed, adequate provision has been made for such a system and, if other methods of sewage disposal are proposed, that such systems will comply with federal, state, and local laws and regulations;
 - c. Adequate areas have been allocated within a subdivision to meet the regulations in this chapter for the long-term collection, management, and treatment of stormwater;
 - d. The proposed subdivision is designed to protect floodplains, watercourses, wetlands, exceptional or specimen trees and woodlands;
 - e. No platting of lots within the subdivision will create any non-conforming lots or increase the non-conformity of existing non-conforming lots on property within or adjacent to the subdivision;
 - f. If the subdivision abuts a state highway, all applicable statutory provisions are followed, including the rules of state department of transportation;
 - g. The proposed subdivision meets all the requirements of this chapter, the city zoning ordinance, the comprehensive plan, the comprehensive transportation plan, and all other standards and regulations adopted by all boards, commissions, agencies, and officials of the city and all other applicable laws from other relevant jurisdictions;
 - h. A properly issued certificate of appropriateness, when the subdivision or portions thereof lie within a designated historic area that required such a certificate as may be required by state law or this Code;
 - i. Lot lines have been laid out so as to minimize crossing municipal or county boundaries; and
 - j. All requirements of the preliminary plat procedures have been fulfilled.
 - (2) The community development director may require the applicant to submit a site plan for any lot to demonstrate that the lot contains adequate buildable area that is suitable for the intended use.
 - (3) After review of the preliminary plat and related comments, and where, in the judgment of the community development director, the preliminary plat conforms to all of the

requirements of this chapter and the city zoning ordinance, all conditions of zoning, and any other applicable city regulations or law the preliminary plat shall stand approved. The following wording for approval must be shown on the preliminary plat:

"This ~~sketch~~preliminary plat has been submitted to and approved by the City of Dunwoody, on this _____ day of _____, _____

By: _____ (By Dir.)

Community Development Director, City of Dunwoody, Georgia"

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

(Ord. No. 2015-01-04, § 1, 1-26-2015)

SECTION V: Subsection 16-202 of Chapter 16 is hereby amended to read as follows:

Sec. 16-202. - Final plat procedure.

- (a) *Preparation.* The applicant must have a registered surveyor prepare the final plat of the subdivision. An application for final plat approval may be made when a preliminary plat of the proposed subdivision has been approved and construction of all required infrastructure is complete to ascertain its location as built, or as required by this chapter.
- (b) *Application filing.* The final plat and a fee in the amount established by the city council must be filed with the city. The final plat and as-built drawings must also be submitted in a digital format acceptable to the city.
- (c) *Plat review.*
 - (1) Upon receipt of the final plat, the community development director must forward copies of the final plat to the following city departments for certification that required improvements are complete and in conformity with the Code of Ordinances:

- a. Appropriate official of the department of community development;
- b. City geographic information system department;
- c. Public works department;
- d. Any other department or entity the community development director deems appropriate.

(2) Any department to which the final plat is submitted must note whether the development meets or fails to meet the requirements of this Code and of that department, specifically, whether all improvements were properly completed and whether the improvements are in conformity with the preliminary plat, when required by the procedures of this chapter. If the improvements are incomplete or if the improvements are not in conformity with the preliminary plat, the department must note the manner in which the plat fails to meet these requirements.

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

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

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

(d) ~~City manager~~ Community Development Director approval.

~~(1) The community development director must transmit the final plat, and any necessary supplemental materials, to the city manager for approval.~~

(12) The ~~city manager~~ community development director as the designee for the governing authority of the city must approve or disapprove the final plat. If the final plat is denied, the community development director ~~city manager~~ must provide the reasons for denial in writing and such writing must be given to the applicant with the denied plat. If the final plat is approved, the ~~city manager~~ community development director must place the following wording on the original as follows:

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

Dated this _____ day of _____, _____.

By: _____ / _____ / _____

[~~City manager~~Community development director as designee of the governing authority]"

- (23) Final plat acknowledgement and approval by the ~~city manager~~community development director constitute the approval, if any, required in order to file subdivision plats with the clerk of the county superior court pursuant to O.C.G.A. § 15-6-67(d).
- (e) *Appeals.* The decision of the ~~city manager~~community development director to approve or disapprove the final plat may be appealed to the city council by request in writing to the ~~city manager~~community development director within 30 days of the ~~city manager's~~community development director's decision. Decisions will be published on-line, in a newspaper of general circulation within the city, and provided in writing via first class mail to adjacent property owners. The 30-day appeal period shall commence from the date written notification is sent to adjacent property owners. If no appeal is made within the 30-day period, the decision of the ~~city manager~~community development director is final. The 30-day appeal deadline may be waived by the city council if the appellant can show evidence that the appeal was filed within 30 days of their actual or constructive notice of the decision. If an appeal is made to the city council, the city council must set a hearing date for the appeal within 30 days of the appeal being requested, and the decision of the city council is final. The city council decision may be appealed only by a petition for writ of certiorari to the county superior court in accordance with state law. Any person or entity (i.e.: an owner, applicant, adjoining neighbor, or a neighbor whose property is within 1,500 feet of the nearest property line of the proposed subdivision) aggrieved by a denial or approval of a preliminary plat, may appeal by filing a petition for writ of certiorari to the county superior court in accordance with state law.
- (f) *Recording.* The approved final plat must be recorded with the clerk of the county superior court by the applicant and returned to the community development director.
- (g) *Dedications.* The filing and recording of the final plat by the community development director will, upon completion of the improvements by the applicant and compliance with all procedures of this chapter, be deemed an acceptance of the dedication of the streets and other public land as shown upon the plat on behalf of the public.
- (h) *Material specifications.* The final plat must be composed of Mylar, or other durable, stable, and reproducible drafting medium approved by the community development director and must meet all provisions of the Georgia Plat Act, O.C.G.A. § 15-6-67.
- (i) *Scale.* Final plats must be prepared at a scale of not more than 100 feet to one inch and must have a maximum sheet size of not more than 24 inches in width and 36 inches in length, and a minimum sheet size of not less than 17 inches in width and 21 inches in length.
- (j) *Compliance with zoning ordinance.* The final plat must comply with the requirements of the city zoning ordinance and all conditions of zoning for the subject property to be shown in the upper right corner of the final plat with text height at a minimum of 0.08 inches.
- (k) *Required information.* The final plat must show the following:

- (1) Sufficient data to determine readily and reproduce on the ground the location, bearings and lengths of every right-of-way, street line, lot line, boundary line and building line, whether curved or straight;
 - (2) Tract boundary lines, land lot and district lines, city and county limit lines, right-of-way lines of streets, easements and other rights-of-way and property lines of residential lots and other sites;
 - (3) All dimensions must be accurate to the nearest one-hundredth of a foot and all angles accurate to the nearest second;
 - (4) Name and right-of-way width of each street including necessary right-of-way required by the city's plans, policies, codes, and requirements;
 - (5) Sidewalk and bike path locations and width;
 - (6) House numbers: numbers will be assigned by the city geographic information system department and placed on the final plat;
 - (7) Title, north arrow, date, scale, land lot numbers and district numbers;
 - (8) Location, dimensions and purpose of easements and areas to be dedicated to public use, common areas or sites for other than residential use with notices stating their purpose and limitations;
 - (9) Special flood hazard area contour line and setback line required by this chapter, state waters/state streams, wetlands, and required stream buffers;
 - (10) Water and sewer utility locations, and the location and type of permanent stormwater management facilities and water quality facilities;
 - (11) Lots numbered in numerical order and blocks lettered alphabetically; all lot and block numerals must be kept in a uniform sequence on all plats and units of the subdivision;
 - (12) Accurate location, material and description of monuments and markers; within each subdivision set one monument on two front corners of the property adjacent to existing rights-of-way on interior streets, or as otherwise approved by the development director; each monument must be a minimum four-inch diameter disk by 24-inch high concrete monument with brass caps set flush with finished grade; and
 - (13) Lots that may not be built upon until detailed plans for grading and drainage have been approved by the community development director.
- (l) *Space for comments, certifications.* A blank space of 50 square inches must be provided on the final plat to allow room for any stamps, notes, approval or denials as required to be placed thereon by city agencies and for the certification of the community development director and approval or denial by the city manager.
 - (m) *Surveyor's and owner's acknowledgments.* The acknowledgements of the surveyor and property owner must be provided and certified on the final plat in a form approved by the city.
 - (n) *Protective covenants.* The final plat may not contain protective covenants stipulating lower standards than the minimum restrictions required by the city zoning ordinance.

(o) *Disclosure statement.*

- (1) Before any final plat for any residential subdivision and any multiphase residential development may be submitted for review by the city, a disclosure statement, sworn to by the applicant under penalty of perjury before a notary public or other officer authorized to administer oaths, must be filed with the community development director. The disclosure statement must be in a form promulgated by the community development director and approved by the city attorney.
- (2) Any applicant for the final plat, intending to make written or oral representations to potential purchasers of homes in any residential subdivision and any multiphase residential development must submit the information specified herein on the disclosure statement which must be made available to members of the public by the community development director:
 - a. An estimated date of completion of the entire residential subdivision;
 - b. A statement of the average size of homes to be constructed in the subdivision, any specified style of architecture, landscaping, the type of construction materials to be used (i.e., brick, stone, stucco, pressboard, etc.) and the average size of lots;
 - c. A statement of the applicant's commitment to build any community amenities within the subdivision, including, but not limited to, a clubhouse, tennis courts or swimming pool;
 - d. A statement of the general terms and conditions at which the applicant proposes to dispose of the lots and/or homes in the residential subdivision;
 - e. Copies of all forms of conveyance to be used in selling lots to potential purchasers;
 - f. A statement of all deed restrictions, easements and covenants applicable to the residential subdivision;
 - g. Copies of instruments creating any deed restrictions, easements and covenants applicable to the residential subdivision;
 - h. A statement regarding whether there will be a mandatory membership in any homeowners association and if so, a copy of the budget for the association for its first year of operation including the estimated amount of the first year's assessments and the estimated amount of revenue to be subsidized by the developer; and
 - i. An explanation of the timing and method of transfer of control of the association to the homeowners where there is a mandatory membership in the homeowner's association governing the residential subdivision.
- (3) With respect to the first phase and subsequent phases of a multiphase residential development, the applicant must also submit the following information:
 - a. An estimated date of completion of each phase of a multiphase residential development and estimated date of completion of all phases of the development;
 - b. A statement of the average size of homes to be constructed in the future phases of the development, any specified type of architecture, landscaping, the type of

construction materials to be used (i.e., brick, stone, stucco, pressboard, etc.), and the average size of lots;

- c. A statement of any community amenities to be built within the development currently or in the future, including, but not limited to, a clubhouse, tennis courts or swimming pools the applicant is committed to constructing in future phases; and
 - d. A statement of the general terms and conditions at which the applicant proposes to dispose of the lots and/or homes in the future phases of the development.
- (4) If the applicant intends to make no representations or commitments to potential purchasers concerning each of the representations set forth in this subsection, the applicant must note the same in the disclosure statement filed with the community development director which statement must be made available by the community development director to the public.
- (5) After the required disclosure statement has been submitted, the community development director must examine the information provided and determine whether the information submitted is consistent with the final plat and if the information is consistent, the community development director must approve the disclosure statement in writing within 35 days of submission of the statement.
- (6) If it appears to the community development director that a disclosure statement is incomplete or fraudulent, the community development director must disapprove the disclosure statement and notify the applicant for the final plat in writing within 14 days after the initial submission of the statement. Such notification suspends the review of the final plat by any city employee or official until the applicant files such additional information, as the community development director requires. No final plat may be certified by the community development director until such time as the community development director approves the applicant's disclosure statement.
- (7) If at any time after approval of the disclosure statement the community development director becomes aware that the disclosure statement contains false or misleading information, or that the applicant is developing in a manner inconsistent with the approved disclosure statement, the community development director must disapprove the disclosure statement and notify the applicant in writing that the disclosure statement has been disapproved.
- (8) Subsequent to the recording of the final plat for a residential subdivision and for each phase of a multiphase residential development, the approved disclosure statement on file with the city must be provided by any seller to potential purchasers at the execution of the purchase and sales contract or, if no such contract is executed, ten days prior to the real estate closing on any property governed by this section.
- (p) *Violations.* It is unlawful for any person to sell property in a residential subdivision or a multiphase residential development without providing a potential purchaser with a copy of an approved disclosure statement as required by subsection (o). It is unlawful for any person to provide the community development director with false or misleading information in an approved disclosure statement as required by subsection (o). It is unlawful for any person to develop in a manner inconsistent with the approved disclosure statement. Any person

convicted of violating this section is subject to fine and/or imprisonment in accordance with section 1-6.

(Ord. No. 2015-01-04, § 1, 1-26-2015)

SECTION VI: Subsection 16-203 of Chapter 16 is hereby amended to read as follows:

Sec. 16-203. - Revised final plat.

- (1) The original recorded plat must be used for all revisions.
 - a. When it becomes necessary to revise an original recorded final plat due to some error, required adjustment or desired adjustment, the applicant must confer with the community development director to determine if the revision is a minor or major revision. The applicant's surveyor must make the necessary corrections on the original final plat or prepare a new tracing of that portion of the subdivision involved. The subdivision name, date and book and page number of the original recording must be noted on the new plat. If the original final plat is not available, then any proposed revision to the final plat must be considered a major change.
 - b. Major. Changes to an approved or recorded subdivision plat that would significantly alter the layout of any public street, alley, or road shown on such plat, or area reserved thereon for public use, or if it would affect any map, plan, or plat legally recorded before adoption of any subdivision regulations, such amendment shall be approved by the same procedure, rules, and regulations required for a new subdivision.
 - c. Minor. Changes to an approved or recorded subdivision plat, including but not limited to, adjusting lots and lot lines, utility easements, streets, shifting of open space and common areas, and other changes considered by the director of community development to be minor in nature and that do not create any additional lots may be approved administratively by staff as a final plat, so long as open space and amenities are not reduced or made less effective, and the overall result is not a substantially new design. The submission of official plats for signing, recording, and for the department record shall be followed as required in this ordinance.
 - d. If the community development director determines the change is major, the revised plat must proceed through the approval process for major or minor subdivisions described in this Code, depending on the applicability provisions.
- (2) If the original final plat is not available, the applicant must prepare a new Mylar or other durable, stable, and reproducible drafting medium approved by the department of community development, in accordance with this subsection.
- (3) Revisions and a notation explaining the revisions must be shown in black ink on the revised plat.
- (4) A blank space consisting of not less than 50 square inches must be provided on the revised plat to accommodate required certifications.
- (5) Revised plats must be prepared at a scale of not less than 50 feet to one inch.

(6) The revised plat must comply with the regulations of the city zoning ordinance, including all conditions of zoning, which are to be shown in the upper right hand corner of the revised plat.

(7) The revised plat must show the following wording in black ink:

"This revised plat has been submitted to the Community Development Director ~~city manager~~ of the City of Dunwoody, Georgia, and has been approved as required by state law and municipal codes as meeting all conditions precedent to recording in the county superior court. This plat is hereby approved subject to any protective covenants shown hereon.

Dated this _____ day of _____, _____

~~City Manager~~Community Development Director City of Dunwoody, Georgia"

(8) All revisions to original plats must be bound by the protective covenants on the original final plat and a statement to that effect must be noted in black ink on the revised plat unless noted otherwise.

(9) Other data which may be required in support of a revised final plat are: a final engineering design report on proposed revisions and such other certificates, affidavits, endorsements, or dedications as may be required by city officials in the enforcement of this chapter.

(Ord. No. 2015-01-04, § 1, 1-26-2015)

SECTION VII:

a. It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

b. It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

c. In the event that any section, paragraph, sentence, clause or phrase of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgement or decree of any court or competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionally or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining sections, paragraphs, sentences, clauses or phrases of this Ordinance and that, to the greatest extent allowed by law, all remaining sections, paragraphs, sentences, clauses or phrases of this Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

SECTION VIII: All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION IX: This Ordinance shall be codified in accordance with State law and the Code of the City of Dunwoody, Georgia. This Ordinance shall become effective upon adoption.

SO ORDAINED, this _____ day of _____, 2019.

Approved by:

Approved as to form:

Denis L. Shortal, Mayor

Cecil G. McLendon, City Attorney

Attest:

Sharon Lowery, City Clerk

SEAL