



To: Board of Commissioners
Planning Board

From: Jeremiah Combs, Planner

Date: October 11, 2021

Re: UDO Proposed Amendment #2021-2
Lincoln County Planning and Inspections Department, applicant

Parcel ID# 27234

The following information is for use by the Lincoln County Board of Commissioners and Planning Board at their joint meeting/public hearing on November 1, 2021.

Proposal

The planning staff is proposing the following amendments to the Lincoln County Unified Development Ordinance:

- 1) Amend Article 6 to remove all Adequate Public Facilities standards and reserve Article 6 for future use.
- 2) Amend Section 9.6.10, Section 9.6.11, Section 9.6.15 to remove subdivision plat certificates and replace them with a statement that all required plat certificates, in accordance with the Plat Certificate Packet on file with the Lincoln County Planning and Inspections Department, must be present on the face of the final plat.
- 3) Amend Section 9.6.6.A to revise the definition of minor subdivision to include all subdivisions with 30 or fewer lots.
- 4) Amend Section 9.6.8.F to revise the approval criteria for a final plat of a minor subdivision.
- 5) Amend Section 2.4.9.B and Section 2.4.9.C to require sidewalks be installed along the existing roads that abut and provide access to residential and commercial Planned Developments.

Background

The purpose of Amendment 1 is to remove adequate public facilities standards that Lincoln County no longer has the authority to enforce.



The purpose of Amendment 2 is to remove subdivision plat certificates, which need to be updated from time to time, from the Unified Development Ordinance, so that future revisions to language within the plat certificates can be accomplished without requiring a public hearing. The public would be able to access a packet that contains the required plat certificates for different classifications of subdivisions without having to search through the Unified Development Ordinance.

All major subdivisions require preliminary plat approval from the Board of Commissioners; the purpose of Amendment 3 is to revise the definition of minor subdivisions so the preliminary plat approval is not required for subdivisions with new roads, water lines, or sewer lines as long as the subdivision contains no more than 30 lots.

The purpose of Amendment 4 is to make the minor plat approval criteria consistent with the revised definition of minor subdivisions.

The purpose of Amendment 5 is to provide opportunities for sidewalk connections along existing roads where residential and commercial planned developments are constructed.

Following is the full text of the proposed amendment, with the proposed changes highlighted in red.

ARTICLE 6. ~~ADEQUATE PUBLIC FACILITIES~~

Reserved for future codification

Amendment 2

- ~~8. The certificate of ownership and dedication required in §9.6.11.E shall include the following additional statement:~~

~~I further certify that the lots shown on this subdivision plat are created for immediate family members only as set out in §9.6.6.C of the Lincoln County Unified Development Ordinance.~~

- ~~9. In addition to the other certifications and notations required in §9.6.11.E, the following certifications and notations shall appear in the final plat:~~

~~(a) Certificate of Ownership and Dedication for Family Subdivisions~~

~~I/We do hereby certify that I/we are all of the owners of fee simple title to the property shown and described hereon, which is located in the subdivision jurisdiction of Lincoln County. I hereby adopt this subdivision plan with my/our free consent. I/we further certify that the lots shown on this subdivision plat are created for immediate family members only as set out in §9.6.10 of the Lincoln County Unified Development Ordinance.~~

~~Owner _____ Date _____~~

~~Must be accompanied by a Notary certification for each owner's signature.~~

~~(b) Private Road Disclaimer Statement~~

~~All roads in this subdivision not currently maintained by NCDOT are private. Neither these nor any other roads shall be maintained by Lincoln County or NCDOT. All road maintenance and construction standards are the responsibility of the subdivider and subsequent owners of lots in the subdivision.~~

~~Owner _____ Date _____~~

~~(c) Certificate of Approval for Recording~~

~~I hereby certify that this is an approved Family Subdivision Plat in accordance with §9.6.10 of the Lincoln County Unified Development Ordinance and that this plat has been approved for recordation in the Lincoln County Register of Deeds Office.~~

~~Owner _____ Date _____~~

Final Plat Review (Major, Minor and Family Subdivisions)

§9.6.11. Final Plat Review (Major, Minor and Family Subdivisions)**A. Applicability**

A final plat shall be required for all subdivision of land in Lincoln County's jurisdiction, except as prescribed in §9.6.2.

B. Application Requirements

All applications for final plat review shall be submitted in accordance with §9.2.2, Application Requirements.

C. Action by Director

1. Upon submission of a completed application, the Director shall within 30 days review the final plat for consistency with the approved minor subdivision plat, family subdivision plat or approved preliminary plat, as applicable, and the general requirements of this UDO.
2. Upon completion of the technical review, the Director may approve the final plat, deny the final plat, or send the plat back for additional consideration.
3. If the final plat is disapproved by the Director, the reasons for such disapproval shall be stated in writing, specifying the provisions of this UDO with which the final plat does not comply.

D. Final Plat Approval Criteria

Final plats shall be approved when the following conditions exist:

1. Consistency with the adopted plans and of policies of the County;
2. The plat complies with the approved minor plat, family plat or preliminary plat, as applicable.
3. The plat complies with the standards of Article 5, Subdivision Standards, and the other applicable requirements of this UDO;
4. New and residual parcels will conform to the requirements of this UDO and other applicable regulations;
5. All necessary right-of-way has been offered for reservation or dedication; and
6. All necessary drainage easements have been provided.

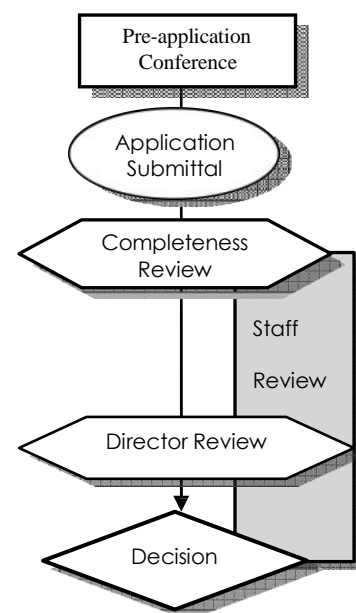
E. Endorsements on Final Plats**~~1. Minor and Family Plats~~**

~~All minor subdivision final plats shall contain the following certificates:~~

~~(a) Certificate of Approval for Recording;~~

~~(b) Watershed certificate;~~

~~(c) Certificate of Ownership and Dedication;~~

Final Plat Review

Final Plat Review (Major, Minor and Family Subdivisions)

- ~~(d) Certificate of Survey and Accuracy; and~~
- ~~(e) Lincoln county review officer's certificate.~~

2. Family Plats

- ~~(a) Certificate of Approval for Recording for Family Subdivisions;~~
- ~~(b) Watershed certificate;~~
- ~~(c) Certificate of Ownership and Dedication for Family Subdivisions;~~
- ~~(d) Certificate of Survey and Accuracy; and~~
- ~~(e) Lincoln county review officer's certificate.~~
- ~~(f) Private road disclaimer statement~~

3. Major Plats

~~All major subdivision final plats shall contain the following certificates:~~

- ~~(a) Certificate of Approval for Recording~~
- ~~(b) Certificate of Ownership and Dedication;~~
- ~~(c) Certificate of Survey and Accuracy;~~
- ~~(d) Certificate of Approval of the Design and Installation of Roads, Utilities, and other Required Improvements;~~
- ~~(e) Watershed certificate;~~
- ~~(f) Certificate of Conformity with Plans and Specifications; and~~
~~Lincoln county review officer's certificate.~~

~~All final plats shall contain the required certificates as indicated in the
most recent version of the plat certificate packet on file with the Lincoln
County Planning and Inspections Department~~

F. Action after Approval

1. The applicant shall file the approved final plat with the County Register of Deeds for recording within 20 days after the date of approval.
2. The approval of a final plat shall not be deemed to constitute or affect the acceptance by the County of the dedication of any road or other ground, public utility line, or other public facility shown on the plat. However, the County may, by resolution, accept any dedication made to the public of lands or facilities for roads, parks, public utility lines, or other public purposes, when the lands or facilities are located within its subdivision regulation jurisdiction.
3. Acceptance or dedication of lands or facilities shall not place on the County any duty to open, operate, repair, or maintain any road, utility line, or other land or facility, and the County shall in no event be held to answer in any civil action or proceeding for failure to open, repair, or maintain any road or road.

§9.6.15. Certifications

~~The following signed certificates shall appear as necessary on all copies of the final plat submitted to the Director. All subdivision plat certificates shall appear in the form indicated on the most recent version of the plat certificate packet on file with the Lincoln County Planning and Inspections Department.~~

~~A. Certificate of Ownership and Dedication~~

~~I/We do hereby certify that I/we are all of the owners of fee simple title to the property shown and described hereon, which is located in the subdivision jurisdiction of Lincoln County and that I/we hereby adopt this plan of subdivision with my/our free consent and establish minimum lot size and building setback lines as noted.~~

~~Owner _____ Date _____~~

~~Must be accompanied by a Notary certification for each owner's signature.~~

~~B. Certificate of Survey and Accuracy~~

~~On the face of each map prepared for recordation there shall appear a certificate acknowledged before an officer authorized to take acknowledgements and executed by the person making the survey or map including deeds and any recorded data shown thereon. The certificate shall include a statement of error of closure calculated by altitudes and departures. Any lines on the map which were not actually surveyed must be clearly indicated on the map and a statement included in the certificate revealing the source of information.~~

~~The certificate shall take the following general form:~~

~~STATE OF NORTH CAROLINA _____ LINCOLN COUNTY~~

~~I, _____, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book _____, page _____, etc.) (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book _____, page _____; that the ratio of precision as calculated is 1: _____; that this plat was prepared in accordance with G.S. § 47-30 as amended. Witness my original signature, registration number and seal this _____ day of _____, A.D., _____.~~

~~Witness my hand and seal this _____ day of _____, A.D. 19____.~~

~~_____
Surveyor~~

~~SEAL or STAMP~~

~~_____
License Number~~

~~I (officer authorized to take acknowledgements) do hereby certify that (name of registered surveyor) personally appeared before me this day and~~

Certifications

~~acknowledged the due execution of this certificate. Witness my hand and
(where an official seal is required by law) official seal this the _____ day
of _____, 19____.~~

~~OFFICIAL SEAL~~

~~Signature of Officer~~

~~C. Certificate of Approval for Recording~~

~~I hereby certify that the subdivision plat shown hereon has been found to comply
with Article 5, Subdivision Standards of the Lincoln County Unified Development
Ordinance and that this plat has been approved by Lincoln County on
_____ for recordation in the Lincoln County Register of Deeds.~~

~~Subdivision Administrator~~ _____ ~~Date~~

~~D. Watershed Certificate~~

~~The (name of subdivision) Subdivision, to the best of my knowledge, does not lie
within a Water Supply Watershed designated by the North Carolina Division of
Environmental Management as appears on the Watershed Protection Map of
Lincoln County.~~

~~Subdivision Administrator~~ _____ ~~Date~~

~~OR~~

~~Lots (fill in the appropriate lot numbers) of the (name of subdivision) Subdivision,
to the best of my knowledge, lie within the (classification of watershed) of the
(name of body of water), as designated by the North Carolina Division of
Environmental Management as appears on the Watershed Protection Map of
Lincoln County. Lots (fill in appropriate lot numbers) of the (name of subdivision)
do not lie within a water supply watershed.~~

~~Subdivision Administrator~~ _____ ~~Date~~

~~E. Septic Disclaimer~~

~~In approving this plat, Lincoln County does not guarantee the suitability of any lot
for the placement of a septic tank system.~~

~~F. Individual Well Statement~~

~~All lots must have an individual well.~~

~~G. Exempt Certificate~~

~~I hereby certify that to the best of my ability as subdivision administrator that I have determined that the subdivision plat shown hereon is not subject to the Lincoln County Unified Development Ordinance pursuant to §9.6.2. This determination is based on statements made by the applicant as to the combination or recombination of recorded lots, the status of roads, and the separation of land subsequent to the effective date of the Unified Development Ordinance. Furthermore such information, if incorrect, would result in the cancellation of this certificate.~~

~~Subdivision Administrator _____ Date _____~~

~~H. Certificate of Conformity with Plans and Specifications~~

~~LINCOLN COUNTY~~

~~Subdivision Name: _____~~

~~_____~~
~~Name of Roads in Subdivision~~

~~_____~~
~~Name of Roads in Subdivision~~

~~Developer: _____~~

~~I hereby to the best of my knowledge, ability and belief certify that all road work to be performed on this subdivision will be checked by me or my authorized representative and will conform with lines, grades, cross sections, dimensions, and material requirements which are shown on and indicated in the plans which have been reviewed and approved by the appropriate District Engineer, North Carolina Department of Transportation. Any significant changes or deviations will be reviewed and approved by the District Engineer or his authorized representative.~~

~~When the roads have the proper number of homes constructed on them, I will petition the North Carolina Department of Transportation to add them to their system for maintenance. Until that time I will keep the roads in a proper state of maintenance.~~

Certifications

~~I also acknowledge that falsification of the above certifications may subject me to civil suit and/or criminal prosecution under G.S. § 14-100, 136-102.6.~~

Signed: _____

Developer or _____ Date _____

Authorized Representative

~~STATE OF NORTH CAROLINA~~

~~LINCOLN COUNTY~~

~~On this _____ day of _____, 19____, personally appeared before me~~

~~_____, for _____~~

~~(Official of Firm) _____ (Firm Name)~~

~~Who signed the foregoing affidavit in my presence and made oath to the truth of the statement herein contained.~~

(Notary Signature)-

My commission expires: _____

~~I. Private Road Design and Construction Certification~~

~~If private roads are created in the subdivision, the following certificate and disclaimer shall also appear on all copies of the final plat submitted to the Director:~~

~~(Use this one for pre-existing private roads)~~

~~I hereby certify that the proposed private road is in compliance with all the standards contained and referenced in §5.4.5 and §5.4.6 of the Lincoln County Unified Development Ordinance, and that the "travel way" of said road is located within the road's right-of-way as shown on the plat.~~

Engineer or Surveyor _____ Date _____

~~OFFICIAL SEAL~~

~~(Use this one for newly constructed private roads)~~

~~I hereby certify that the proposed private road was constructed in accordance with the preliminary construction plans and profiles prepared in accordance with §5.4.5 and §5.4.6 of the Lincoln County Unified Development Ordinance.~~

Engineer or Surveyor _____ Date _____

~~OFFICIAL SEAL~~

~~J. Private Road Disclaimer Statement~~

~~All subdivision roads are hereby declared private and shall not be maintained by the North Carolina Department of Transportation or Lincoln County. The maintenance of all roads in this subdivision shall be the responsibility of the Developer and it shall be his responsibility to bring it up to the road standards as certified by the~~

~~design and construction engineer. After transfer of ownership of the road to the Homeowners' Association it shall be their responsibility for maintenance.~~

Owner _____ Date _____

~~K. Public Road Certification~~

~~If public roads are created in the subdivision, the following certificate shall appear on all copies of the final plat submitted to the Director:~~

~~All roads in this subdivision are hereby declared public. The maintenance of all roads in this subdivision shall be the responsibility of the developer and, it shall be their responsibility to bring the roads up to standards of the North Carolina Department of Transportation secondary roads.~~

Owner _____ Date _____

~~L. Improvement Certificate~~

~~If improvements for recreation and open space shall be completed after the final plat is submitted, but within two years or when 50 percent of the total units have been issued occupancy permits, whichever comes sooner, the following certificate shall appear on all copies of the final plat submitted to the Director:~~

~~All improvements for recreation and open space shall be completed within two years or when 50 percent of the total units have been issued occupancy permits, whichever comes sooner.~~

Owner _____ Date _____

§9.6.16. Approved Plat Modifications

A. Minor Modifications

1. Preliminary Plat

Minor revisions to an approved preliminary plat may be approved by the Director if the revisions are within the scope and intent of the original approval. Such revisions may include but not be limited to:

- (a) Reducing the lot count.
- (b) Modifying phase lines.
- (c) Minor adjustments to lot or road locations.

2. Final Plat

A final plat may be rerecorded to:

- (a) Revise or correct dimensions;
- (b) Change road names;
- (c) Add, delete or modify easements or private covenants;
- (d) Change subdivision name; or
- (e) Other minor modifications that are within the scope and intent of the original approval subject to approval of the Director.

Delegation of Authority

§9.6.4. Delegation of Authority

The Board of Commissioners delegates review and approval authority for all minor plats and final plats to the Director, with review by the Technical Review Committee.

§9.6.5. Unlawful to Record Plat without Final Plat Approval

It shall be unlawful to offer and cause to be recorded any final plat within the jurisdiction of Lincoln County Register of Deeds Office unless the plat bears the endorsement and approval of the Lincoln County Review Officer.

§9.6.6. Definitions

A. Minor Subdivision

1. A minor subdivision is a subdivision that does not involve ~~any of the following:~~
 - (a) Creation of a total of more than ~~20-30~~ lots;
 - (b) ~~Creation of any new roads;~~
 - (c) ~~Extension of any water and/or sewer lines, other than individual service lines; or~~
 - (d) ~~Installation of drainage improvements through one or more lots to serve one or more other lots.~~
2. Minor subdivisions require minor plat review and final plat review.
3. Subdivision of a tract or parcel of land in single ownership meeting the following criteria shall require only final plat review:
 - (a) The tract or parcel to be divided is not exempted under §9.6.2.B;
 - (b) No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division;
 - (c) The entire area of the tract or parcel to be divided is greater than five acres;
 - (d) After division, no more than three lots result from the division;
 - (e) After division, all resultant lots comply with all lot dimension requirements;
 - (f) After division, the use of the lots is in compliance with the applicable zoning requirements; and
 - (g) A permanent means of ingress and egress is recorded for each lot.

B. Major Subdivision

1. All other divisions of land not exempted in §9.6.2 above or listed in §9.6.6.A above shall be considered major subdivisions.
2. Major subdivisions require preliminary plat approval and final plat approval.

C. Family Subdivision

1. Subdivisions involving the creation of lots for residential purposes which are to be deeded only to immediate family members and cannot be resold or deeded for three years shall be exempt from certain procedural and administrative requirements of this UDO. Such subdivisions shall neither be

Minor Plat Review

§9.6.8. Minor Plat Review

A. Applicability

The procedure for approval of a minor subdivision plat is intended to simplify processing of routine small subdivisions with due regard to protection of the public interest. The difference between the minor and major subdivision processes is that minor subdivisions do not require preliminary plat review.

B. Application Requirements

All applications for minor plat review shall be submitted in accordance with §9.2.2, Application Requirements.

C. Action by Director

1. Upon submission of a completed application, the Director shall determine whether the plat conforms to the standards of a minor subdivision.
2. If the minor subdivision plat is determined not to be in conformance with the requirements for a minor subdivision, the applicant may proceed with preliminary plat approval.

D. Action Following Approval

The approval of a minor plat does not constitute final plat approval. Upon minor plat approval:

1. A final plat shall be submitted in accordance with the requirements of §9.6.11. The final plat shall be recorded in the Lincoln County Register of Deeds Office.
2. The applicant may begin preliminary site work. All site work shall be performed in compliance with the requirements of this UDO, and other applicable regulations of Lincoln County and the State.

E. Continuing Validity of Minor Plats

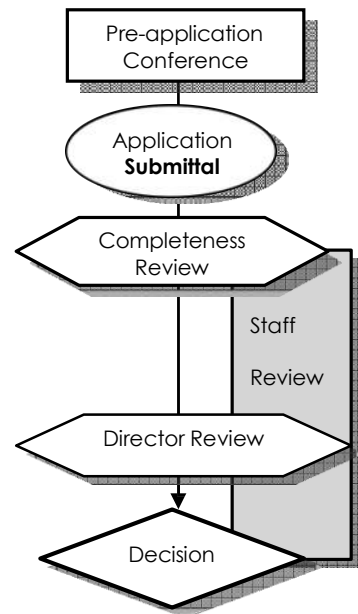
Within 24 months of the date of approval of the minor subdivision plat, the applicant shall submit application for final plat review otherwise the minor subdivision plat shall be null and void.

F. Minor Plat Approval Criteria

Minor subdivision plats shall be approved only when the Director finds that all of the following conditions exist:

1. Consistency with the adopted plans and of policies of the County;
2. The plat complies with the standards of Article 5, Subdivision Standards, and any other applicable requirements of this UDO;
3. The plat indicates that all subject lots will have frontage on existing or new approved roads;

Minor Plat Review



4. New or residual parcels conform to the requirements of this UDO and other applicable regulations;
5. ~~No new roads are required or are likely to be required for access to interior property;~~
6. ~~No extension of public sewerage or water lines will be required;~~
7. The proposed subdivision will not adversely affect permissible development of the remainder of the parcel or of adjoining property; and
8. No waivers from Article 5, Subdivision Standards, have been requested.

Planned Development District Standards

B. Planned Development-Residential (PD-R) District**1. Minimum Requirements**

The Planned Development-Residential District is an option provided to encourage a mix of housing options within a comprehensively planned development, allowing a density bonus in return for the provision of a higher quality development.

2. Permitted Uses

All uses permitted by right and as special uses in residential districts are permitted in a PD-R District (§2.2.1), subject to approval by the Board of Commissioners.

3. Project Boundary Buffer

An undisturbed buffer at least 20 feet in width and meeting the standards for a Class B buffer (see §3.4, Landscaping, Screening and Buffering) shall be maintained along all project boundaries.

4. Exterior Sidewalks

In addition to the requirements of §5.5, sidewalks shall be installed along all existing roads that abut and provide access to the project. All required sidewalks shall be a minimum five feet in width.

C. Planned Development-Commercial (PD-C) District**1. Minimum Requirements**

The Planned Development-Commercial District is an option provided to enhance the design of a commercial development within a comprehensively planned development by allowing for additional flexibility not available in nonresidential districts.

2. Permitted Uses

All uses permitted by right and as special uses in the O-R, B-N, and B-G districts are permitted in a PD-C District (§2.2.1), subject to approval by the Board of Commissioners.

3. Project Boundary Buffer

- (a) Unless waived by the Board of Commissioners, a Class B buffer (see §3.4, Landscaping, Screening and Buffering) shall be provided along all project boundaries abutting a nonresidential district.
- (b) Unless waived by the Board of Commissioners, a Class C buffer (see §3.4, Landscaping, Screening and Buffering) shall be provided along all project boundaries abutting a residential district.

4. Exterior Sidewalks

In addition to the requirements of §5.5, sidewalks shall be installed along all existing roads that abut and provide access to the project. All required sidewalks shall be a minimum five feet in width.

D. Planned Development-Industrial (PD-I) District**1. Minimum Requirements**

The Planned Development-Industrial District is an option provided to encourage unified industrial complexes of high quality by allowing for additional flexibility not available in nonresidential districts.

2. Permitted Uses

- (a) All uses permitted by right and as special uses in the B-N, B-G, I-L, and I-G districts are permitted in a PD-I District (§2.2.1), subject to approval by the Board of Commissioners.



Zoning Amendment Staff's Proposed Statement of Consistency and Reasonableness

Case No. **UDO Proposed Amendment #2021-2**
Applicant **Lincoln County Planning and Inspections Department**

Proposed amendments

- 1) Amend Article 6 to remove all Adequate Public Facilities standards and reserve Article 6 for future use.
- 2) Amend Section 9.6.10, Section 9.6.11, Section 9.6.15 to remove subdivision plat certificates and replace them with a statement that all required plat certificates, in accordance with the Plat Certificate Packet on file with the Lincoln County Planning and Inspections Department, must be present on the face of the final plat.
- 3) Amend Section 9.6.6.A to revise the definition of minor subdivision to include all subdivisions with 30 or fewer lots.
- 4) Amend Section 9.6.8.F to revise the approval criteria for a final plat of a minor subdivision.
- 5) Amend Section 2.4.9.B and Section 2.4.9.C to require sidewalks be installed along the existing roads that abut and provide access to residential and commercial Planned Developments.

This proposed amendment **is consistent** with the Lincoln County Comprehensive Land Use Plan and other adopted plans in that:

All major subdivisions and Planned Developments will still require public hearings, during which the Board of Commissioners must consider whether or not the proposal is consistent with the Lincoln County Land Use Plan.

This proposed amendment **is reasonable** in that:

Amendment 1 aligns ordinance language with rulings from the North Carolina Supreme Court. Amendments 2, 3, and 4 aim to streamline the subdivision review process. Amendment 5 promotes pedestrian connectivity between adjoining developments.



UDO Text Amendment Application

Lincoln County Planning and Inspections Department
115 W. Main St., Lincolnton, NC 28092
Phone: (704) 736-8440

Part I

Applicant Name Lincoln County Planning and Inspections Department

Applicant Address 115 W Main St, Lincolnton, NC 28092

Applicant Phone Number (704) 736-8440

Part II

Briefly describe the proposed text amendment.

- 1) Amend Article 6 to remove all Adequate Public Facilities standards and reserve Article 6 for future use.
- 2) Amend Section 9.6.10, Section 9.6.11, Section 9.6.15 to remove subdivision plat certificates and replace them with a statement that all required plat certificates, in accordance with the Plat Certificate Packet on file with the Lincoln County Planning and Inspections Department, must be present on the face of the final plat.
- 3) Amend Section 9.6.6.A to revise the definition of minor subdivision to include all subdivisions with 30 or fewer lots.
- 4) Amend Section 9.6.8.F to revise the approval criteria for a final plat of a minor subdivision.
- 5) Amend Section 2.4.9.B and Section 2.4.9.C to require sidewalks be installed along the existing roads that abut and provide access to residential and commercial Planned Developments.

I hereby certify that all of the information provided for this application and attachments is true and correct to the best of my knowledge.


Applicant

9-17-21
Date