

## **ARTICLE IV MAJOR SUBDIVISION APPROVAL**

### **Section 1. Major Subdivision Approval**

The purpose of this section is to establish the procedure that shall be followed by the developer, the Planning Commission, and the Town staff in preparing, reviewing, and approving any subdivision defined as a major subdivision under the provisions of these regulations. The provisions of these regulations shall be considered as minimum requirements to promote and protect health, safety and general welfare of the citizens of Elkton. The Planning Commission shall require each subdivision to conform to the Zoning Ordinance applicable thereto.

- 1.** Types of Major Subdivision Plans. The following plan types are hereby created and defined as the basic approval steps needed for a major subdivision:
  - a.** Pre-application. Allows the Planning Commission, and/or technical review staff input in the formative stages of subdivision design.
  - b.** Preliminary Subdivision Plat. All proposed major subdivisions shall be first considered by the Administrator as a preliminary subdivision plat. Upon approval of this plat by the Planning Commission, the developer may seek improvement plan approval from the Town. No lot may be sold or transferred or building permit obtained based upon an approved preliminary subdivision plat.
  - c.** Improvement Plan. The improvement plan is a detailed construction plan for public improvements to be developed in conjunction with a subdivision, such as streets (public or private), storm drainage, sanitary sewers, and other public facilities. Upon approval of this plan by the Town, the developer may construct such improvements in accordance with the approved improvement plan.
  - d.** Final Subdivision Plat. Major subdivision plats shall receive their last official consideration by the Planning Commission as a final subdivision plat. Upon approval of the final subdivision plat by the Planning Commission and subsequent recordation, lots may be sold or transferred and building permits obtained in accordance with the approved final subdivision plat.
  - e.** General Development Plan. This mechanism is designed to permit the developer of a large-scale project to go before the Planning Commission with a conceptual description of the development, but not full engineering details of the project, and secure formal approval of basic development parameters.
- 2.** Pre-Application. For the purpose of expediting applications and reducing subdivision and site plan design and development costs, the developer shall request a pre-application conference and/or concept plan in accordance with the following requirements:

**a.** Pre-Application Conference.

- (1) The pre-application conference shall allow the applicant to meet with Town planning and engineering staff.
- (2) Applicants seeking a pre-application conference shall submit the information stipulated in Appendix A of this Ordinance ten (10) working days prior to the conference.
- (3) The applicant shall not be bound by the determination of the pre-application conference, nor shall the Planning Commission or staff be bound by any such review.

**b.** Concept Plan.

- (1) In addition or as an alternative to the pre-application conference, at the request of the applicant, the Planning Commission shall grant an informal review of a concept plan for a development for which the applicant intends to prepare and submit an application for development.

The purpose of the concept plan is to provide Planning Commission and staff input in the formative stages of subdivision and site plan design.

- (2) Applicants seeking concept plan informal review shall submit the items stipulated in Appendix A of this Ordinance ten (10) working days before the concept plan meeting.
- (3) The applicant shall not be bound by any concept plan for which review is requested, nor shall the Planning Commission be bound by any such review.
- (4) Prior to the submittal of a concept plat to the Planning Commission, the applicant shall to the extent possible, based on best available information, notify by certified mail all contiguous (inclusive of property on the opposite side of street) property owners of the proposal to subdivide the property. Notification shall include the name, address and telephone number of the developer, date and time of the Planning Commission Meeting, the acreage and zoning of the parcel proposed for the subdivision, and the proposed number of lots. Proof of notification shall accompany the concept plan submittal. (Amended effective 3/21/06 Ordinance 3-2006 & 7/10/07, Ordinance 3-2007)
- (5) Additionally, the applicant shall be responsible for the erection and maintenance of a clearly visible sign containing a copy of the proposed plat on each of the property's road frontages. Each plan shall be provided by the applicant and fabricated to specifications provided by the Planning Department. The signs shall be durable, weather resistant, have a minimum dimension of 30 inches by

36 inches and shall be maintained in place until the final plat approval. If the Director of Planning or his/her designee determines that the applicant has failed to maintain or properly install the sign(s) in compliance with these requirements, the proposed project will be withdrawn from the Planning Commission agenda. (Amended effective 3/21/06 Ordinance 3-2006)

3. Preliminary Subdivision Plat Procedure. All preliminary subdivision plats shall be processed as follows:
  - a. Pre-application Conference. At least ten (10) working days prior to filing of a preliminary subdivision plat, the applicant may prepare a rough sketch of the proposal and meet with the planning staff to discuss the proposed subdivision. The purpose of this conference is to discuss, at the earliest stages, subdivision requirements and procedures and possible issues related to the development of the property in question. The applicant is encouraged to bring a sketch of the property, to approximate scale, showing the boundaries, general topography, important physical features, and other significant information, as well as the proposed scheme for the development of the property. It is intended that this procedure will help alleviate possible conflicts over subdivision requirements by early recognition of existing conditions, necessary facilities, and other requirements, which the applicant can then consider in preparing the formal subdivision proposal. The applicant is also encouraged to discuss the proposal with other public agencies and utilities at this stage.
  - b. The applicant shall not be bound by any sketch plan for which review is requested, nor shall Planning Commission be bound by any such review.
  - c. The requirements of Section 1.2.b(4) and 1.2.b(5) of this Article shall be satisfied. (Amended effective 3/21/06 Ordinance 3-2006)

## **Section 2. Technical Review -- Preliminary Subdivision Plat**

1. Step 1: Application and Distribution. To formally ask for action on the preliminary plat, the applicant shall file a completed application form, filing fee, and copies of the plat as follows:
  - a. 10 paper prints (folded to 9 x 12) of Preliminary Subdivision Plat
  - b. Completed and signed Preliminary Subdivision Plat Application
  - c. Completed and signed Preliminary Subdivision Plat Checklist.
2. Step 2: Project Submittal.
  - a. Applications are submitted to the Zoning Administrator, at the Building and Planning Office, for preliminary acceptance review.
  - b. Preliminary acceptance and review using the checklist will be conducted by the Zoning



presentation to the Planning Commission for consideration and recommendation at the next available Planning Commission meeting.

**8. Step 8: Planning Commission Meeting.**

**a.** Preliminary Subdivision Plat applications listed on the Planning Commission Agenda for proposed action are presented by Zoning Administrator. The Planning Commission shall review the plat with regard to the following:

- (1) Substantial conformance to the land use provisions of Elkton's Comprehensive Plan and provisions of the Elkton Critical Area Program, where applicable;
- (2) Guidelines that will promote the erection of buildings in areas that are free from danger of flooding, erosion, stream siltation, unsuitable sanitary conditions and other hazards; and
- (3) Protection of wetlands, streams, areas of steep slopes and shoreline.

**b.** Applicant is notified in writing of Planning Commission recommendation.

**9. Step 9: Planning Commission Action.** No preliminary plats shall be considered for action by the Planning Commission until they have been reviewed, and recommendations have been made, by the appropriate review agencies, including but not limited to the Elkton Public Works Department, the Maryland State Highway Administration, and the Health Department, as applicable. All preliminary plats shall be approved, conditionally approved, or disapproved within 90 days of the date they are officially filed for Planning Commission action. The Planning Commission shall act for approval, conditional approval with conditions noted, postponement, or disapproval. Reasons for action of postponement or disapproval and any requirements associated with a conditional approval shall be stated. The following actions by the Planning Commission shall have the meanings so stated:

**a.** Approval means that the developer is authorized to proceed with the preparation of the required "improvement" plan. Preliminary plat approval automatically grants a developer two (2) years within which he shall submit final plats for all property shown on the preliminary plat for approval. Before expiration, the Planning Commission may extend the approval period in increments not to exceed one (1) year at a time. In connection with such request, the Planning Commission shall consider the following:

- (1) change in adjoining land use,
- (2) change in street and highway plan, and/or
- (3) change in zoning or subdivision regulations.

A request for extension of Preliminary approval shall be filed thirty (30) days prior to the deadline date for Final Plat recording.

In conjunction with such approval extensions, the Planning Commission shall have the right to require changes in the development when it finds that time has necessitated such changes for the health, safety, and welfare of the residents of the community or when applicable ordinances and regulations have been changed. Upon the expiration of any approval period specified under this section, the plat shall be deemed as disapproved by the Planning Commission.

Any approved Preliminary Plat or any plat continued for further study by the Planning Commission shall be exempted from any changes in the subdivision regulations for a period of two (2) years from the date of approval of the Preliminary Plat. Exemptions from changes in subdivision regulations law shall not be extended beyond one (1) year even if the Preliminary Plat approval is extended as provided above.

- b. Conditional approval means the developer may proceed with preparation of the "improvement" plan, but only after the preliminary plat has been corrected to reflect all requirements placed on the plat by the action of the Planning Commission. Actual approval of the Preliminary Plat shall not be made until such conditions have been satisfied.
  - c. Postponement means Planning Commission action is delayed for definite reasons, which shall be noted by the Planning Commission. Certain specified changes may have to be made in the plats, but no completely new re-submittal of the plat is required of the developer. However, all preliminary plats shall be approved or disapproved within 90 days of the day they are officially filed for Planning Commission action unless the developer agrees to a longer postponement.
  - d. Disapproval means disapproval of the plat. For further action, the developer must file a new application along with a filing fee and preliminary plat copies as required under Article IV, Section 1.
10. Step 10: Certification of Approval. The developer shall make any required additions or corrections to the preliminary plat and submit copies in a number required by the Planning Commission within one (1) year of the date of Planning Commission approval. The plat shall be deemed as disapproved by the Planning Commission if this requirement is not met.

### **Section 3. Technical Review Procedure -- Improvement Plan**

- 1. Step 1: Application and Distribution. The developer shall file the required copies of the improvement plan, prepared and stamped by a registered civil engineer, and fully conforming to all applicable Town regulations and the approved preliminary plat with the Planning Commission's comments addressed.
- 2. Step 2: Review. The Planning Commission and/or other agencies shall review the proposed improvement plan and, within 120 working days, notify the developer in writing of the approval,

conditional approval, or disapproval of the plan.

- a. Approval means the developer is now authorized to proceed with preparation of the final plat.
- b. Conditional approval means the developer may proceed as described above for "approval", but only after the required copies of the corrected improvement plan have been submitted to the Planning Commission. The improvement plan shall be deemed as disapproved if the fully corrected plan is not filed within ninety (90) days of the Planning Commission's notification.
- c. Disapproval means disapproval for the reasons stated in the notification by the Planning Commission. For further consideration, the developer must resubmit the improvement plan as a completely new improvement plan.

#### **Section 4. Final Plat Procedure**

The final plat is the culmination of the subdivision process and shall include all information necessary to comply with this section of these regulations. The final plat is intended to become the official record of the division of land within a development and no lot therein may be sold legally until a Final Plat has been approved by the Planning Commission and recorded by the Developer. The Final Plat shall not be recorded until a Public Works Agreement and a signed letter of credit is posted.

The Final Plat shall basically follow the procedural requirements for Preliminary Plat procedure. All major final subdivision plats shall be processed as follows:

1. Pre-Application Conference. The developer is urged to prepare a draft of the proposal and discuss it informally with the Planning Commission and other government and utility agencies in order to share information and open a dialogue at the earliest stages of the process. This conference is not a mandatory pre-requisite to the formal filing of the final subdivision plat by the developer.
2. Application, Distribution, and Review. The application, distribution, and review procedures for final subdivision plats shall be generally a two-step procedure: pre-approval from any agency required to give approval, and approval by the Planning Commission. After approval of the Preliminary Plat, the Developer shall submit his Final Plat. Submittal shall be presented to the Planning Department. Submittal shall be accompanied by ten (10) copies of the Final Plat, fees, and required Public Improvement Plans and shall be certified by the Planning Department as to the date of receipt.
3. Planning Commission Action. All final plats shall be approved or disapproved within ninety (90) days of the date they are officially filed for Planning Commission action. The Planning Commission will review the staff and technical review agency recommendations and then act for approval, conditional approval with conditions noted, postponement, or disapproval. The reasons for action of postponement or disapproval and any requirements associated with a conditional approval shall be available to the developer and the public. The following actions by the Planning

Commission shall have the meanings so stated:

- a.** Approval means the final plat is ready to be approved by the Planning Commission, with no further corrections or revisions of the plat required by the developer.
- b.** Conditional approval means the final plat cannot be approved by the Planning Commission until the developer has complied with the conditions of approval set forth in the Planning Commission's action on the plat.
- c.** Postponement means that the Planning Commission has deferred action in order that certain clarification can be made in regard to the plat. No completely new re-submittal is required of the developer as is the case for disapproval. However, all final plats shall be approved or disapproved within ninety (90) days of the date they are officially filed for Planning Commission action unless the developer agrees to a longer postponement.
- d.** Disapproval means disapproval of the plat. In order to request a new review and action, the developer must file a new application along with a filing fee, plat copies, and other material as required under this Section.
- e.** Final Plats must be brought before the Planning Commission at their regular meeting before they can be signed and recorded as directed by this regulation. The Chairman of the Planning Commission shall be empowered to sign the final plat when satisfactory review indicates that said plat meets all requirements of the Ordinance and all conditions of approval of said plat have been met. The final plat is reviewed against the preliminary plat and any modification contained herein. The authorized signature of the Health Department shall be affixed to the plat prior to signing by the Chairman. Upon approval, the developer, or his representative, shall submit to the Planning Department the original Final Plat and public improvement plans for signature by the various agencies.

#### **Section 5. General Development Plan**

- 1.** Applicants of planned-unit developments, major site plans, or major subdivisions of at least fifty (50) acres containing a minimum of 100 dwelling units or 40,000 square feet of non-residential building area shall divide preliminary approval into two phases: Phase One -- General Development Plan; Phase Two -- Preliminary Approval.
- 2.** An applicant requesting General Development Plan approval shall first submit to the Planning Commission ten (10) copies of the materials stipulated in Appendix A of this Ordinance.
- 3.** The application shall be declared complete as outlined in Article IV, Section 2.
- 4.** The Planning Commission shall, within ninety (90) days or within such further time as may be consented to by the applicant, either grant approval of the General Development Plan as submitted or with changes and/or conditions or deny approval.

5. The approval of the General Development Plan shall confer upon the applicant the following rights for a period of at least two (2) years, or for a longer period if determined by the Planning Commission:
  - a. The total number of maximum residential density and the general type of residential dwelling (single-family detached residences, townhouses, garden apartments, etc.).
  - b. The maximum amount of floor area ratio (FAR) for proposed non-residential development (i.e. commercial, office, institutional, industrial).
6. The Planning Commission shall indicate the following, which shall not vest, but still be presumed to be valid at the time of approval, subject to engineering and environmental considerations:
  - a. The location of the collector roads.
  - b. The general location of the different uses and density by land-use area.

**Section 6. Endorsements and Certifications on Major Subdivision Plats**

All subdivision plats shall contain the endorsements and certificates as required by the Town.

**Section 7. Plat Approval Not Acceptance of Dedication Offers**

Approval of a plat does not constitute acceptance by the Town of the offer of dedication of any streets, sidewalks, parks, or other public facilities shown on a plat. However, the Town may accept any such offer of dedication through the acceptance of a properly prepared deed.

**Section 8. Protection Against Defects**

1. Whenever (pursuant to terms of the Elkton Zoning Ordinance) occupancy, use or sale is allowed before the completion of all facilities or improvements intended for dedication, then the performance bond or the surety that is posted pursuant to Article IV, Section 10 shall guarantee that any defects in such improvements or facilities that appear within one year after the dedication of such facilities or improvements is accepted shall be corrected by the developer.
2. Whenever all public facilities or improvements intended for dedication are installed before occupancy, use, or sale is authorized, then the developer shall post a performance bond or other sufficient surety to guarantee that he will correct all defects in such facilities or improvements that occur within one year after the offer of dedication of such facilities or improvements is accepted.

**Section 9. Maintenance of Dedicated Areas Until Acceptance**

All facilities and improvements with respect to which the owner makes an offer of dedication to public use shall be maintained by the owner until such offer of dedication is accepted by the appropriate public

authority.

#### **Section 10. Bonding and Guarantee of Public Improvements**

Bonding Procedures and Requirements shall be as specified by the Town of Elkton.

#### **Section 11. Standards for Plat Preparation and Submittal**

1. The Planning Commission shall make final determination on the completeness and accuracy of the plat in accordance with the provisions of this section prior to recordation of the plat. See Appendix A for a complete list of requirements for the Final Plat.
2. The final subdivision plat shall be submitted to the Planning Commission drawn on a reproducible sheet made of material that will be acceptable to the Clerk of the Circuit Court having dimensions of 18" x 24". When more than one sheet is required to include the entire subdivision, all sheets shall be made of the same size and shall show appropriate match marks on each sheet and appropriate references to other sheets of the subdivision. A location map indexing each of the sheets shall be submitted to the Administrator and kept on file. The scale of the plat shall be at one (1) inch equals not more than one hundred (100) feet. The applicant shall also submit ten (10) prints of the plat.
3. The accurately positioned north arrow shall be placed on the plat.
4. All plat lines shall be by horizontal (level) measurements. Enlargement of portions of a plat are acceptable in the interest of clarity, where shown as inserts on the same sheet.
5. Where a boundary is formed by a curved line, the following data must be given: actual survey data from the point of curvature to the point of tangency shall be shown as standard curve data, or as a traverse of bearings and distances around the curve. If standard curve data is used the bearing and distance of the long chord (from point of curvature to point of tangency) must be shown on the face of the plat.
6. Where a subdivision of real property is set out on the plat, all streets and lots shall be carefully plotted with dimension lines indicating widths and all other information pertinent to reestablishing all lines in the field. This shall include bearings and distances sufficient to form a continuous closure of the entire perimeter.
7. Permanent Reference Monuments, shown on the plat, shall be placed. Such permanent reference monuments shall be stone or concrete at least 24 inches in length and four (4) inches square with suitable center point and shall be set flush with the ground and to finish grade. Iron pipes measuring 1/2 inch in diameter and 18 inches in length shall be placed at all lot corners. Concrete monuments shall be placed on road right-of-ways where street direction changes. All locations shall be approved by the Planning Office. All monuments shall be in place when finish grading is completed. Monuments shall be placed at all block corners, and angle points as required by the Town Engineer, who shall also approve the material, size and length of such monuments. Pipes

and monuments shall be set by a Maryland registered land surveyor. It shall be the responsibility of the developer to have these monuments placed prior to the acceptance of the streets by the Town of Elkton and shall be guaranteed in the Public Works Agreement. The developer shall be responsible and pay all costs necessary to replace any town grid monuments or control points disturbed by his development activities. Replacements shall be done by a Maryland registered surveyor to accurately place such monuments. Such payment to restore any monuments is to be secured by a Public Works Agreement.

- 8.** If the final plat is disapproved by the Planning Commission, the applicant shall be furnished with a written statement of the reasons for the disapproval.
- 9.** Approval of a final plat is contingent upon the plat being recorded within nine (9) months after the approval certificate is signed by the Planning Commission or its designee. The subdivider will furnish copies of the recorded plat to all applicable County and State agencies, as directed by the Building and Planning Office. If the final plat is not recorded within nine (9) months, the approvals granted by the Planning Commission will become null and void.
- 10.** Street and development names shall not be the same nor closely approximate, phonetically or in spelling, to the name of any other street in Elkton or the Singerly Fire Company's jurisdiction.
- 11.** For subdivisions in the Critical Area, accurate outlines (metes and bounds, where required) of the following:
  - (a)** Any common or reserved areas or portions of lots to be maintained by covenant, easement or similar approved instrument, in permanent forest cover, including existing forest areas, reforested areas and afforested areas.
  - (b)** Any areas to be maintained as resource protection use (e.g., agriculture, natural parks, forest, etc.).
  - (c)** Any areas to be maintained as permanent wildlife and plant habitat protection areas.

In addition to the information above, the Preliminary Plan shall be accompanied by the following when the subdivision or development is proposed in the Critical Area, as required:

- (a)** A Planting Plan reviewed by and addressing the comments of the Maryland Forest Service;
- (b)** A Habitat Protection Plan, including the comments of the Maryland Fish, Heritage and Wildlife Administration, the Water Resources Administration and other agencies, as appropriate;
- (c)** Stormwater Management Plan;
- (d)** Sediment and Erosion Control Plan;

- (e) Shore Erosion Protection Plan;
- (f) Natural Park Management Plan;
- (g) An Environmental Impact Assessment which provides a coherent statement of how the proposed development addresses the goals and objectives of the Elkton Chesapeake Bay Critical Area Program. At a minimum, the Environmental Impact Assessment shall include:
  - (1) A statement of existing conditions, (amount and type of forest cover, wetlands, existing agricultural activities, soil types, topography, etc.);
  - (2) Description of the proposed development project, including number and type of residential units, amount of impervious surface, proposed sewer treatment and water supply, acreage devoted to development, proposed open space and habitat protection areas;
  - (3) A description of the proposed development's impacts on water quality and Habitat Protection Areas; and
  - (4) Documentation of all correspondence and findings.
- (h) Total area of the subdivision to be recorded and where density restrictions apply, the acreage dedicated to development.
- (i) Total area of subdivision or parcels to be recorded in the Critical Area.
- (j) Total number of lots in the Critical Area.
- (k) Residential density in the Critical Area.

**Section 12. Establishment of Restrictive Covenants**

The Town is not responsible for the enforcement of individual covenants such as common maintenance and common access agreements. Such covenants shall be entered into Court records and shall not violate local, state, and federal laws.

**Section 13. Establishment of Easements**

A plat shall show the location of all existing and proposed recorded easements (including right-of-ways) which affect the property and a citation of any recorded easements, restrictions, reservations or covenants which affect the property.

**Section 14. Original Tract**

1. The Planning Commission shall require that the remaining original tract be shown as stated in the appropriate section below:

- a.** If less than five (5) acres of land remain in the original tract after the lots are excluded then all of the tract (lots and remainder) must be platted.
  - b.** If more than five (5) acres of land remain in the original tract after the lots are excluded then the owner is not required to plat the remaining acreage.
- 2.** The owner is required to provide a sketch of the tax map showing the entire acreage and the location of lots being platted and any previous platted lots.

**Section 15. Reserved**

**Section 16. Reserved**