Module 5. Land Subdivision Control

This training module has seven parts:

• Introduction--Purposes of land subdivision regulation
• The Regulatory Setting
• The Subdivision Review Process
• Subdivision Design and Improvement Issues
• Development Exactions: Who Pays for Improvements?
• Special Types of Subdivisions
• Growth Management Tools

Purposes of Land Subdivision Regulation

Land subdivision regulation is intended to achieve several purposes:

• Promote good development and design practice

The way land is subdivided, streets are laid out, and lots are developed sets the pattern of community development for years to come. Once land is divided, lots are only rarely consolidated, and sites are only occasionally redeveloped. Subdivision regulations provide a community with a special opportunity to ensure that new neighborhoods are properly designed and that new subdivisions are integrated into the community.

• Ensure that the subdivision improvements are adequate

Subdivision review ensures that a new subdivision will be properly equipped and that improvements will be maintained in the future. If the local government expects to take over a street, drainage facilities, or a utility line, it has an obvious interest in ensuring that the improvement is properly constructed or installed. Even if a city or county is not
expected to assume maintenance responsibility, it still has an interest in ensuring that improvements are maintained for the benefit of lot purchasers.

Subdivision regulations often determine what portion of the capital improvement costs of serving new development are paid by the community as a whole and what portion are paid by the developer and lot purchasers. Subdivision improvements are provided more easily and cheaply and easements are more easily arranged while the developer still controls the land. If improvements and easements are not provided until after the lots are sold, costs to the taxpayer will typically be greater than they would have been had the developer provided the improvements and passed on the cost to the lot purchaser in the price of the finished lot. Also, costs that are passed on to the purchaser can often be financed over the term of a home mortgage loan.

• Establish good land records

By requiring the platting (mapping) of newly created lots, streets, easements, and open areas, subdivision requirements help to ensure the creation and preservation of adequate land records. Land titles can be determined much more easily if the “metes and bounds” (bearings and distances) descriptions of a property found in deeds are supplemented by, and refer to, a surveyed and recorded plat. Plats and related construction plans are of particular value to tax assessors and are used to prepare land use and road and street maps and the data for geographic information systems.

• Protect the interest of the lot purchaser

Lot purchasers rarely know what water line size or system pumping capacity will ensure adequate water pressure for their future homes. Nor are they likely to evaluate the base and paving materials used to construct the street or road that serves their houses. Establishing minimum standards for subdivision improvements and design is the traditional way to protect purchasers, who generally lack the specialized knowledge to evaluate improvements and design.
Part Two: The Regulatory Setting

• Local Government Authority to Regulate Land Subdivision

North Carolina cities and counties derive their power to regulate subdivisions from the land subdivision control enabling legislation found in the North Carolina General Statutes. This legislation includes the following features:

- North Carolina counties enjoy much the same authority to regulate land subdivisions as do North Carolina cities

- The scope of coverage of a local subdivision ordinance is established by state statute (or a local act) in the form of the definition for the term “subdivision.”

- A city subdivision ordinance may be applied in a city’s extraterritorial planning jurisdiction.

An ordinance may include provisions to ensure:

- That a plat is prepared, approved, and recorded whenever any subdivision of land takes place.

- The public dedication or reservation of rights-of-way or easements for street and utility purposes.

- The coordination of streets and other public facilities within a proposed subdivision with existing or planned streets or other public facilities located outside the subdivision.

- The construction of community service facilities in accordance with ordinance standards.

- The posting of bond or any other method that will guarantee compliance with the requirements of the ordinance.

- Either the dedication of land for a recreation area or the payment of fees in lieu of such an exaction.

- The payment to a local government of fees in lieu of constructing required street improvements.

- The final approval of each individual subdivision plat is to be given by either the governing board (city council or county board of commissioners) or a planning agency.

The approval of a final plat does not constitute the acceptance by the approving local government of the dedication of any street, utility line, or park shown on the plat. Some other action must be taken to accept such a dedication.
If an ordinance applies to the land, the county register of deeds is prohibited from recording a subdivision plat that has not been approved. However, the register is not authorized to block the recording of a deed simply because it describes an illegally subdivided lot.

Violation of a subdivision ordinance is a criminal misdemeanor. It may also be enforced by civil remedies such as a court order or civil penalties.

• The Relation of the Subdivision Ordinance to other Ordinances, Regulations, and Plans

- Zoning Ordinance.
  Establishes dimensional standards for lots that are incorporated into subdivision regulations. Establishes lot access and frontage standards for existing lots that must be related to new street and lot standards in subdivision regulations. Establishes development standards for cluster and planned unit developments that must be coordinated with subdivision review.

- Flood Hazard Ordinance.
  May establish certain flood protection standards for streets, utilities, and on-site stormwater improvements. Amount of newly subdivided lot that may be located within flood hazard zone may be limited by subdivision ordinance.

- Watershed ordinance.
  Limits the size of lots in new subdivisions, in some cases relating it to use of curb and gutter street. Establishes standards for stormwater detention facilities and their maintenance designed to protect water quality.

- Soil erosion and sedimentation control ordinance.
  Requires soil erosion and sedimentation control plan, sets stream buffers, and requires use of erosion and sedimentation control measures that may apply to residential subdivisions.

- On-Site Sewage Disposal Regulations.
  Require lot soils and lot size to be suitable for proposed system. Preliminary soil evaluations may be coordinated with preliminary plat review.
• The Planning Board’s Role

As a member of a North Carolina planning board (or commission), your role in land subdivision regulation is twofold:

- Review Site-Specific Subdivision Plats

Much of the planning board’s involvement in land subdivision regulation comes from its review of individual subdivision plats. Plats may come in the form of sketch plans, preliminary plats, or final plats. Your ordinance will determine which governmental body -- the planning board, the governing board, or a technical review committee-- has been granted plat-approval authority for each type of plat. Some cities and counties delegate the power to approve preliminary and final subdivision plats to the planning board. The governing board may play no significant role in reviewing plats. In other local governments the governing board approves all subdivision plats. The planning board simply provides recommendations to the governing board for each plat. In still other jurisdictions the planning board may be authorized to approve a plat, but the decision may be appealed to the governing board. In any case, the planning board or their designated approval body will be expected to fulfill the administrative function of determining whether a particular plat meets pre-set criteria and standards for approval.

- Offer Advice Concerning Ordinance Changes and Development Policy

A planning board can play an important role in making recommendations to elected officials about the contents of the subdivision ordinance. Because property owners and developers do not routinely propose amendments to the subdivision ordinance, the planning board may wish to monitor how the ordinance is working, what type of development results, and whether growth is consistent with those plans that the local governmental unit has adopted. The planning board may also be in a position to offer useful advice to the city council or board of county commissioners regarding such matters as water and sewer extension policy, thoroughfare planning, and growth management issues. In these instances, the planning board plays an important advisory role in providing guidance to the governing board when it exercises its legislative role.
Part Three: The Subdivision Review Process

• Pre application procedures

Many local units encourage or require subdividers first to submit a sketch plan or design plan to the planning staff or plat approval agency. The purpose is to bring representatives of local government and the subdivider together so that the local unit can learn what is proposed and the subdivider can better understand the unit’s development requirements. The local unit is primarily concerned with the location of the proposed subdivision, the general pattern of streets and lots, and the proximity of community or public facilities.

• Preliminary plat review

Normally the next important step (or the first step) in the review process is the submission and approval of a preliminary plat of the proposed subdivision. To call a subdivision map submitted at this stage “preliminary” may be misleading, since the plat will, in large measure, fix the nature, design, and scope of the subdividing activity to follow. The purpose of this review is to objectively measure the plan against the standards of the ordinance.

Advice and consent.--One important aspect of preliminary plat review is the comments and recommendations obtained from various city and county departments and agencies outside local government before formal action is taken on the plat. In some case the reviewing department or outside agency will simply offer recommendations to the plat-approval agency concerning the subdivision’s design. For example, the district soil conservationist may suggest that the soil or topography of some portions of the site are more suitable for development than others. In other cases the reviewing agency may have to certify that the construction plans accompanying the plat meet that agency’s standards for the particular improvement being constructed. For example the district highway engineer for the North Carolina Department of Transportation must approve...
preliminary construction plans for all subdivision roads proposed for acceptance onto the State Highway System.

**Technical review committee.**—The review procedure works best when the various departments and agencies

1. Receive copies of the subdivision plats and accompanying documentation well before their comment is expected;
2. Make their recommendations and comments in writing;
3. Present their comments at a subdivision review meeting at which representatives from all of the reviewing departments and agencies are present; and
4. Make a joint recommendation that can be carried to the governing board or planning board when it formally considers the plat.

**Yes, no, or maybe.**—The customary practice is for a board to approve a plat, deny approval, or to approve it with conditions. If a preliminary plat as submitted presents problems, several alternatives are available. One option is for the board to require the applicant to withdraw the plat, to redesign the proposal to incorporate required changes, and then to resubmit the revised plat. A second option is for the board to approve the preliminary plat subject to the condition that the required changes be incorporated into the final plat. Requiring the redesign and resubmission of the preliminary will cost the applicant time and money, but permitting the applicant to “work out” the required changes in the final plat without resubmitting the preliminary versions may produce a final plat that does not meet the board’s expectations. The choice probably depends on the extent of the required changes. One compromise may be for the board to delegate to staff the authority to approve redesigned preliminary plans prior to the submission of final plans.

**Approval expiration.**—Many ordinances provide that preliminary plat approval expires within a certain period (often a year or two) after the preliminary plat is approved. However, in large multi-phased developments, the final plats for some of the latter phases of the development may be submitted some years after the approval of the preliminary plat or master plan. An alternative is to approve a flexible staging plan when the preliminary is approved that allows final plats to be submitted over a much longer period of time. Approval of a staging plan can link the recording of final plats to the installation of the improvements necessary to serve the various development phases.

**Variances or Waivers.**—Boards occasionally approve features of plats and plans that do not comply with the apparent terms of the subdivision regulations. Variances, modifications, and waivers are some of the terms used to describe these kinds of permissions. Unfortunately our enabling statutes do not mention them, and there are no generally recognized standards for granting them. The board granting such a permission should take pains to document the reasons justifying the decision.

**Decision-Making.**—As a rule, the plat-approval agency must approve a subdivision plat if it meets the standards and requirements of the ordinance. Any condition or specific requirement imposed on the approval must be based on authority granted to it in the ordinance. The agency must be able to point to a particular ordinance provision to justify requiring, for example, that the subdivider extend streets to the subdivision boundary or
that the subdivider construct a detention pond on the site if drainage problems warrant it.

In considering subdivision plans, neither the planning board nor the governing board has the broad discretion in making its decision that a governing board has in deciding whether to rezone property. Normally subdivision approval may not be withheld simply because owners of adjacent property object to the subdivision or because the new lots may not be as large as the lots in the immediate vicinity.

• **Final plat review**

Final plat review ensures that recordable plat is in substantial accordance with plans approved earlier. It also ensures that either subdivision improvements have been satisfactorily constructed according to approved plans or that they will be constructed after the plat is recorded. It also provides an opportunity to review operation and maintenance of proposed private facilities and improvements.

The final plat is the subdivision map prepared for recording in the register of deeds office and is sometimes known as record plat. Engineering information (e.g., the location and type of utilities and drainage facilities) is generally not included on the final plat. Once the final plat has been approved, it may be recorded in the office of county register of deeds. Plat recordation authorizes the sale of lots and typically is necessary before building permits for lots may be issued.

• **Guaranteeing developer performance**

A subdivision ordinance generally provides various means of ensuring that a subdivider provides subdivision improvements in a timely manner. The means available include:

**Improvements come first.**--Requiring improvements to be completed before final plat approval

**Some installed, some guaranteed.** --Requiring certain improvements to be installed before final plat approval and allow others to be postponed if financial performance guarantee provided

**Phasing approach.**--Final plat approval withheld until improvements for preceding stage of phased development are completed

**Financial guarantees.**--Allow developer to post financial performance guarantee. Examples include:

- Irrevocable letter of credit from lender
- Performance bond from surety company
- Security (cash or other property) placed in escrow

**Certificate of occupancy.**--Withhold certificates of occupancy for new buildings on subdivided lots until the improvements associated with those lots are completed
Part Four: Subdivision Design and Improvement Issues

• Subdivision boundaries and edges.

Regulations may require buffers, planting strips, walls, berms, building setbacks, or other design features to shield subdivision residents from effects of adjacent land uses. Check to see whether maintenance responsibility lies with the subdivider or lot purchaser and how buffers and setbacks are measured.

• Natural hazard and critical environmental areas.

Areas within flood hazard zones, critical areas of environmental importance, and key natural resources should be identified on subdivision plans. If hazard areas or critical environmental areas are included in areas to be subdivided, enough land exclusive of hazard or natural resource areas should be provided for each lot to accommodate a building site. Clustering development is an excellent way to avoid hazardous areas and to protect environmental and natural resources.

• When it rains.

Stormwater plans are ideally based on the drainage characteristics of the entire watershed. Storm sewer and related systems are most appropriate in conventional small-lot subdivision where connection to a large, geographically comprehensive system is available or steep terrain makes natural drainage methods unfeasible. Natural methods are intended to limit peak runoff from site, using the natural infiltration capacity of land. They tend to be less expensive and more appropriate for large parcels of undivided land. The quality of water retained on-site is often better than that carried off-site. However, stormwater detention facilities may be necessary in certain circumstances. They require special maintenance arrangements and can pose safety and liability threats. (See also "To curb or not to curb").

• To curb or not to curb.

Engineers tend to emphasize the advantages of streets with curbs and gutters. Landscape architects and land planners prefer streets with shoulders and swales and more natural methods of handling stormwater. Curbs tend to stabilize the edges of a road and useful where on-street parking is likely, particularly in steep terrain. Curbs also tend to channel stormwater and dispose of it quickly, a feature which can result in downstream erosion and flooding curbs. Nonetheless, curbs and gutters may be the best option for urban subdivisions with significant impervious surface. In contrast a systems of roads with shoulders and drainage swales may work well in large-lot and more rural subdivisions. They work best where on-street parking is unlikely and allow streets with narrower pavement and right-of-way widths. However, a swale requires careful design and regular maintenance to avoid degenerating into a ditch. Also, a system of swales can be compromised by the heavy use of culverts under driveways.
• Public or private streets.

**Public.** If a subdivision is located inside municipal limits (or annexation is imminent), a municipality may require the subdivider to build subdivision streets to municipal standards and dedicate them to the municipality. If a subdivision is located outside municipal limits, a municipality with extraterritorial planning jurisdiction or a county may require a subdivider to build subdivision roads to state standards and dedicate them to the public.

**Private.** A municipality or county may allow a subdivider to establish a private street or road (i.e., a joint driveway). Subdivision ordinances may provide that private streets or roads are allowed:

- If the streets cannot be directly connected to the public street or road network.
- In rural subdivisions in unincorporated areas where the cost of meeting NCDOT road standards is too high.
- In cluster developments or planned unit developments where the developer or property owners’ association is prepared to maintain the streets.
- In special situations to serve a limited number of lots.

Private streets can cause problems for local government because they can result in gated communities that can impede emergency service access, a disconnected and inefficient residential street network that is expensive to serve with urban services such as garbage collection and police protection, and the private streets may ultimately be petitioned by the property owners associations to be taken over for public maintenance if the association is not adequately financed, or if the property owners themselves rebel against paying a surcharge to maintain their streets when their neighbors who are served by public streets get maintenance paid for by their taxes.

• The Power of the Pipe.

An important means of development control enjoyed by a North Carolina local government with its own utility system is the power to determine where it will extend water and sewer lines and when capacity will be added to its water purification and distribution system and its wastewater collection and treatment systems. Planning boards have an interest in ensuring that a city or county’s utility extension policy (and the cost-sharing and reimbursement arrangements for doing so) are in writing and have been adopted by the governing board. A city may extend utility lines to areas outside municipal limits and determine the conditions under which it will do so. Cities may, and sometimes do, require developers to petition for annexation as a condition of line extension and service. However, a municipality may not compel a subdivider to connect to a municipal line in an unincorporated area.

• Septic Tanks and Subdivision Review.

In a rural or fringe suburban area the lots in a proposed subdivision may be intended to be served by a septic tank or other on-site sewage disposal system. Since the size and
configuration of the each lot is important in determining whether it is suitable for such a system, the suitability of each lot for this purpose should be evaluated before lots are subdivided. Preliminary site evaluation should occur before the final plat is reviewed and recorded. However, planning board members should understand that some county sanitarians are understandably reluctant to certify the suitability of lots for septic tanks directly on the face of the plat. Health departments cannot guarantee that a lot is suitable for a septic tank until a permit application is filed for a particular lot that indicates the location, nature, and size of the building and drain field and other pertinent features as they exist at the time of construction. Nonetheless planning boards and health departments should not miss to opportunity to screen lots for possible septic tank use when subdivisions are reviewed.

• **Stub-outs, Turn-arounds, and Cul-de-sacs.**

An important issue in subdivision review concerns when it is wise to connect new subdivision streets with existing or proposed streets in areas outside the subdivision. If street connection is desirable but the street outside the subdivision has not yet been built, then the subdivider may be expected to extend the street to the subdivision property line (to "stub-out" the street), perhaps with a temporary turn-around at the property line. Of course, an alternative that is popular with both developers and lot purchasers is to provide privacy for lot owners by terminating many residential streets with cul-de-sacs.

**Stub-outs.** It is often desirable to build and connect a new single-family residential subdivision street:

- With an existing exterior street that already extends to the subdivision boundary
- With a proposed exterior street proposed on a thoroughfare or connector street plan, if the subdivision’s traffic is sufficient
- to the property line of an undeveloped adjacent tract to establish an overall residential street system that is reasonably efficient for the community to serve with trash collection, school bus access and emergency service access
- With an exterior street proposed for a subsequent phase of the same development

**Cul-de-sacs.** Cul-de-sacs are appropriate if:

- No exterior connecting street currently exists and none is planned
- A sensitive natural area must otherwise be crossed in a way that has marginal public benefit and great environmental cost
- The adjacent property is already developed and no "stubbed" street was extended from the adjacent development
- The exterior area is likely to be developed for other than single-family residential use

**Flags, panhandles, pipestems, and spaghetti.** One debate about design concerns so-called flag, pipestem, panhandle, or spaghetti lots. These lots are generally distinguished by the fact that the portion of the lot that fronts on the street or road is just wide enough to accommodate a driveway. Flag lots may be desirable to the extent that:
– They limit the length of subdivision cul-de-sacs and reduce improvement costs and provide design variety.

– They allow good design in hilly terrain where a lot designer wants to take advantage of a limited number of hillside building sites, and rectangular lot configuration may be too confining.

- They allow the creation of lots fronting on a lake or another scenic attraction located some distance from a road where rectangular lot configuration may be too confining.

Flag lots are undesirable to the extent that:

- The front of one house may face the rear of the house next door since houses on flag lots fronting the same road are often staggered at varying distances from the road.

– Lots with complex sides may offer less usable area for building sites and open space than their area may suggest.

- Lateral utility lines may require longer extensions if the pole or stem of the lot abuts the street and the bulk of the lot is in the rear.

- The number and separation of driveways along the road may impede traffic, if the ends of the poles or stems of a number of flag lots are clustered along a road.

• Subdivision hardware.

Ensuring that arrangements have been made for physical improvements at the time land is subdivided is central to many of the purposes of subdivision regulation. The types of improvements typically required of developers are fairly standard, at least in municipal jurisdictions, and include

- paved streets (including curb and gutter where appropriate),
- surface and subsurface stormwater facilities,
- sidewalks in some instances,
- water and sewer lines where central service is available, and, in some cases,
- fire hydrants.

More demanding municipalities may require

- street signs,
- street lights,
- subdivision entrance signs,
- perimeter fences or walls,
- solid waste receptacles, or even
- bus shelters.

Counties, especially less urban ones, require less.
Part Five: Development Exactions

A question fundamental to subdivision regulation is what portion of the cost of subdivision improvements and community facilities will the subdivider bear and what portion will the public bear. Most North Carolina local governments expect subdividers, as a condition of plat approval, to provide certain public improvements at their own expense.

• Development Exaction

A requirement of development permission that a developer provide or pay for public improvements at the developer’s own expense

EXAMPLES

| LAND DEDICATION: | Requirement that an interest in land be donated for use by the public |
| CONSTRUCTION OF: | Requirements that a developer construct or install public improvements within a public easement or on public land |
| IMPROVEMENTS | |
| FEES IN LIEU: | Requirements that a developer pay fees in lieu of dedicating land or constructing improvements |
| IMPACT FEES: | Requirements that a developer pay impact fees to finance the proportionate share of the costs of new capital improvements (including off-site improvements) needed to serve the new development |
GENERAL AUTHORITY TO IMPOSE EXACTIONS
AS A CONDITION OF SUBDIVISION PLAT APPROVAL

<table>
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<th>Type of Exaction</th>
<th>Parks</th>
<th>Utilities</th>
<th>Streets</th>
<th>Schools</th>
<th>Fire Stations</th>
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<tr>
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<td>Yes</td>
<td>Yes, for utility easements</td>
<td>Yes</td>
<td>No</td>
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<tr>
<td>Construction of Improvements</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
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<tr>
<td>Fees-in-Lieu</td>
<td>Yes</td>
<td>No express authority</td>
<td>Yes, for street construction</td>
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<tr>
<td>Impact fees</td>
<td>Possibly</td>
<td>Yes, public enterprise authority</td>
<td>Possibly</td>
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</tr>
</tbody>
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To say that a city or county may impose an exaction requirement upon a subdivider is not to say that such requirements may be imposed without limitation. The fact that a developer seeks plat approval is not justification for requiring the subdivider to provide a community benefit unrelated to the impact of the development.

• Constitutional Issues

An important aspect of development exactions is their constitutional implications. Unless exaction requirements are tailored and flexibly applied, they can violate the U.S. Constitution provision that prohibits a taking of private property for public use without just compensation. An exaction must be properly and fairly related to the need for the required public improvements generated by the new development. In Dolan v. City of Tigard, the U.S. Supreme Court ruled that the following requirements must be satisfied if an exaction meets constitutional standards:

• The exaction must be “roughly proportional” to the public facility needs generated by the new development

**SEE MODULE 6. LANDMARK LEGAL CASES FOR MORE DISCUSSION OF “TAKINGS” ISSUES REGARDING EXACTIONS.

• The determination concerning whether the exaction is constitutionally proper must be made on an individualized basis

• Burden of proving exaction is constitutional is on government
Impact Fees

Impact fees, facility fees, project fees--these are all names used in North Carolina for a systematic, comprehensive way of funding the new capital facilities required by new development. Impact fees are a form of developer exaction because they require the developer to provide for new public improvements made necessary by new development at the developer's own expense. However, impact fees differ in several respects from the kinds of development exactions we typically associate with land subdivision approval (i.e., local paved streets, local stormwater facilities, local water and sewer lines):

- Impact fees apply to projects that do not involve the subdivision of land (multi-family residential developments, office parks, commercial projects, and industrial developments) as well as those that do (single-family residential subdivisions).

- Impact fees are typically collected just before either a building permit or certificate of occupancy is issued rather than when land is subdivided.

- The fees are intended to finance new facilities, or improvements to facilities that normally serve an area substantially larger than a single subdivision, such as arterial and higher-function thoroughfares, community parks, and major trunk utility lines.

Like all developer exactions, impact fees must meet constitutional tests. The cost burden to the developer may not exceed the prorated portion of the total facility costs that can fairly be attributed to the development. In addition, any facility financed by the fees imposed on the developer must sufficiently benefit the assessed development. Most importantly, the facility must be provided by the local government when the need for it arises.

The authority of North Carolina cities and counties to operate public enterprises such as water supply and wastewater collection and distribution systems is sufficiently broad to allow the imposition of impact fees for these purposes. However, general enabling legislation is not available for communities that wish to use such fees to fund streets and highways, parks and open space, schools, and other facilities. As a result, several dozen local governments have obtained local enabling legislation adopted by the General Assembly allowing them to adopt impact fee programs. Raleigh, Durham, Cary, and Orange County are among those local governments that have adopted impact fee ordinances, and several of them have operated impact fee programs for over a decade.
Part Six: Special Types of Subdivisions

• Cluster residential subdivisions

In a cluster development dwelling units are grouped on certain portions of a site, and other areas in common ownership remain open and free from development. Lots in a cluster subdivision are generally smaller than those in a conventional subdivision, but the lots and units are clustered on those portions of the site best suited for development. Cluster development:

• Allows development in the most appropriate areas and prevents development in inappropriate areas such as flood-prone areas and areas of steep terrain or unstable soils
• Allows use of natural methods for handling stormwater
• Preserves open space
• Reduces infrastructure costs
• Typically requires a property owners’ association to be established to take on responsibility for maintaining open space

Most cities and counties allow cluster subdivisions, but do not compel subdivisions to be clusters. As an incentive, most ordinances provide some sort of bonus so that the number of lots allowed exceeds the number that would be allowed if the site were to be subdivided conventionally. Cluster design lends itself to both single-family detached and single-family attached housing, including townhouse developments and zero-lot-line housing.

• Manufactured home subdivisions

Standards for a single-family development of manufactured homes need not be any different from those of a subdivision with lots of the same size devoted to site-built housing. However, there may be reasons for allowing manufactured home rental communities (mobile home parks) to be developed at a higher density than a subdivision. The owner of a mobile home park generally retains title to the land; spaces are not permanently platted; and the owner may convert the park to another use if conditions warrant.

• Neo-traditional subdivisions

“New Urbanism” and neo-traditional development challenge conventional development assumptions that residential and nonresidential uses must be separated, that streets should be wide and curvilinear, and the densities must be low. The prevalent
assumptions of the new urbanism the mixing of uses, the use of a street grid pattern with pedestrian amenities, and the reintroduction of architectural elements such as front porches and parking in the rear.

Neo-traditional subdivision proposals implicate a number of subdivision ordinance standards:

- Street right-of-way and cartway widths
- Functional classification of streets
- Design and improvement of alleys
- Location and extent of sidewalks and other pedestrian ways
- Use of vertical street curbs (lack of driveway cuts)
- Block length and lotting standards
- Park and open space standards as applied to town square and other open areas
- Zero-lot-line and “build to” standards
- Transit stops and bus shelters as possible developer exactions
- Buffers, entrances, and treatment of “edges” of development
Part Seven: Growth Management Tools

• Adequate Public Facilities Standard:

A standard that may be incorporated into a land subdivision or zoning ordinance that makes approval of specific development projects contingent upon the availability of public facilities (i.e., sewage treatment, streets) serving the area or the entire community. This may be applied as a standard for plat approval or the grant of a special use permit. This technique is used in Currituck and Cabarrus counties.

• Annexation Agreement:

An agreement between two municipalities that designates particular unincorporated areas within which each municipality will be entitled to annex land, so long as each complies with a particular schedule or deadlines.

• Compulsory Cluster:

A provision of a subdivision or zoning ordinance that requires (rather than simply allowing) the developer to concentrate lots or building sites on certain areas of the development tract in order to leave other portions free from development, typically by designating them as common open space. Used by some local governments in other states, but uncommon in North Carolina.

• Concurrency Criterion:

A criterion for meeting the adequate public facilities standard that allows development to be approved only if it can be shown that excess capacity is currently available in those neighborhood and community-wide public facilities necessary to serve the additional growth created by the development or that necessary capacity will become available concurrently with the need for the capacity induced by the development. Florida statutory law requires developers who seek local development permission to demonstrate that this criterion has been met.

• Moratorium:

A legally adopted stop-gap measure to halt a certain type of development for a defined period of time until the governmental unit can overcome an emergency, expand public facilities, or develop a regulatory program for addressing the problem that gives rise to it. Moratoria may differ substantially in terms of the severity of their impacts. A moratorium on the issuance of zoning permits for outdoor advertising signs might have a relatively modest impact. A moratorium on all subdivision plat approvals or all building permits would be far more drastic.

• Neotraditional Development:

Development that draws on neighborhood and village designs from the early part of the 20th century to create more livable communities. Features include inter-connected streets, a mix of uses and housing types, pedestrian-oriented design, and traditional architectural motifs.
• **Planned Unit Development:**

A comprehensively planned project with a master land development plan that exhibits a mix of housing types or land uses, that provides areas of commonly-held open space, and that preserves significant natural features of the site.

• **Transfer of Development Rights:**

A land-use regulatory system in which the right to develop property can be separated or severed from land in a particular zoning district, sold or transferred to other property owners, and exercised in connection with the development of land in some other area of the jurisdiction (in a "receiving district").

• **Urban Growth Boundary:**

A boundary established by an urban government (typically a municipality) that defines the geographic limit beyond which it will not provide certain public facilities and services. Such a boundary arguably should but often does not coincide with a municipality's extraterritorial planning jurisdiction boundary. Typically applies to water, sewer, and other utility or public enterprise services provided by the city. Used by City of Durham.

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• **Summary of this module...**

**FOUR THINGS TO REMEMBER ABOUT SUBDIVISION MANAGEMENT:**

1. **The purpose of subdivision management programs** is to promote good development and design practice, ensure that the subdivision improvements are adequate, establish good land records, and protect the interest of the lot purchaser.

2. **Communities have the legal right to expect subdividers to construct needed public improvements at no cost to the public if those improvements are necessary to serve the development.** There are constitutional limits to this power, and a proportional relationship between the impact of the development and the magnitude of the improvements required must be maintained.

3. **The Planning Board's role in the subdivision management process may vary in each community.** In general, however, the regulation of subdivisions is an administrative process where the proposal is measured against a well-defined set of objective criteria.

4. **There are a variety of special types of subdivisions, that may be useful in special circumstances.** Cluster developments, planned unit developments (PUD's), neo-traditional developments, and manufactured housing developments offer creative solutions to designing neighborhoods.

**Some Exercises:**
1) All new subdivision roads in Carolinaville must be dedicated. The developers of Hyacinth Hills Subdivision say they will build the required roads, restrict their use to the owners and guests of the subdivision, and dedicate them to the development's homeowners' association.

Does this comply with the city requirement?

2) Suppose that a property owner wishes to divide some land as shown on the adjacent diagram. Suppose also that the "existing road" is an arterial road shown on the local thoroughfare plan, which has been adopted by several local governments and the North Carolina Board of Transportation. The "existing road" currently has two lanes and a right-of-way width of 50 feet. The plan calls for the road to be upgraded to four lanes and the right-of-way expanded to 80 feet. Suppose further that the land is subdivided as shown in the diagram. May the local government require the subdivider to dedicate an additional 15 feet of right-of-way along one side of the road as a condition of subdivision plat approval?

3) Look at the subdivision plat in your materials entitled "Northridge." Which of the following requirements may a local government impose on the subdivider as a condition of plat approval?

- Install local water and sewer lines within the subdivision to serve each lot
- Dedicate land for a site for a new fire station
- Dedicate land for small playground site within the subdivision
- Pay a fee representing the apportioned cost of building arterial streets and thoroughfares needed to serve future growth in the region

4) Look at the plat for the subdivision "Northridge."

(a) Under what circumstances should a road like Bristol Road be "stubbed out" at the property line?

(b) Under what circumstances should a road like Greenwood Drive be "stubbed out" at the property line?

5) Examine the plat for the subdivision "Cola Run."

(a) What design problems do you see that you think need to be remedied?

(b) What important items of information do you think are missing from this plat if it is intended to serve as a preliminary plat?
Bibliography, Sources, and Additional Resources


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