

ARTICLE III
PROCEDURE

Section 300. Introduction.

The procedures hereinafter specified provide for a pre-application procedure, for conditional approval of a preliminary plat, and for the approval of a final plat. The pre-application procedure and the conditional approval of the preliminary plat are optional to the applicant and are not a prerequisite to the approval of the final plat. However, these optional procedures are strongly recommended in that they provide the Subdivider with an opportunity to resolve problems early in the proceedings and to make necessary modifications and revisions prior to incurring the expense of preparing as final plat.

PRE-APPLICATION PROCEDURE

Section 301. Purpose.

1. The purpose of the “Pre-application Procedure” is to afford the Subdivider the opportunity to avail himself of the advice and assistance of the Planning Commission and to consult early and informally before preparation of the Preliminary Plat and before formal application for its approval.
2. During the “Pre-application Procedure”, the Subdivider can advantageously make use of the services of the Planning Commission to help him analyze the problems of the development and plan more adequately for its sound coordination with the community. This preliminary discussion also affords the Planning Commission the opportunity to give informal guidance to the development at a stage when potential points of difference can be more easily resolved. It can also simplify official actions and save unnecessary expense and delay.

Section 302. Procedure

When pre-application is used, the following procedure shall apply:

1. Prior to the filing of an application for Conditional Approval of the Preliminary Plat, the Subdivider shall submit, at least ten (10) days prior to the meeting of the commission, three (3) copies of the plats and data specified in Article VI, Sections 600 through 602, to the Planning Commission.
2. This step in the procedure does not require formal application, fee, or filing of a formal plat with the Planning Commission.

Section 303. Objections shall be expressed.

1. Within thirty (30) days of the receipt of pre-application plat and data the Commission shall inform the Subdivider that the plats and data as submitted or modified do or do not meet the objectives and requirements of these Regulations.
2. When the Commission finds plats and data do not meet the objectives or requirements of these Regulations, it shall express its reasons therefore in writing and provide the Subdivider with a copy of same.

PROCEDURE FOR CONDITIONAL APPROVAL OF PRELIMINARY PLAT

Section 304. Preliminary plat required.

On reaching conclusions informally as recommended or required in Section 312 above regarding his general program and objectives, the Subdivider may submit, at least ten (10) days prior to the Secretary of the commission, three (3) copies of the plats and data specified in the Article VI, Sections 603 through 605, to the Planning Commission.

Section 305. State Department of Highways and Soil Conservation Service Review.

If the State Department of Highways had filed with the Planning Commission a map of the territory within one mile on either or both sides of any existing or proposed highway, no Preliminary Layout shall be approved by the Planning Commission until one (1) copy of such Preliminary Layout has been referred to the designated office of the Department of Highways desires to make any recommendations on the plat, it shall communicate such to the Planning Commission within fifteen (15) days from the receipt of the plat.

The Soil Conservation Service shall review, at the request of the Planning Commission, all preliminary plats for recommendations concerning the effects the proposed development would have upon the natural environment.

Section 306. Conditional approval of the Preliminary Plat by the Planning Commission.

1. Following review of the Preliminary Plat and other material submitted for conformity thereof to these Regulations and negotiations with the Subdivider on changes deemed advisable and the kind and extent of improvements to be made by him, the Planning Commission shall, within thirty (30) days, act thereon as submitted, or modified. If approved, the Commission shall express its approval as Conditional Approval and state the conditions of such approval, if any, or if disapproved, shall express its disapproval and its reasons, therefore.
2. The action of the Commission including any conditions determined shall be noted on two (2) copies of the Preliminary Plat. One (1) copy of the action and the plat shall be returned to the Subdivider, and the other retained by the Planning Commission.

Section 307. Preliminary Plat A Guide For Preparation of Final Plat.

Conditional approval of a Preliminary Plat shall not constitute approval of the Final Plat. Rather it shall be deemed an expression of approval to the layout submitted on the Preliminary Plat as a guide to the preparation of the Final Plat which will be submitted for final approval of the Planning Commission.

PROCEDURE FOR APPROVAL OF FINAL PLAT

Section 308. Approval of Final Plat.

A plat of a subdivision within the jurisdiction of the Planning Commission shall not be recorded by the County Clerk unless and until it has first been approved by the Planning Commission. The filing and recording of a plat involving the subdivision of lands covered by these Regulations shall be without legal effect unless approved by the Commission: provided, however, that failure to comply with this section shall not invalidate or affect the title to any land within the area of such plat: And provided further,

that if such plat shall bear the seal of the Commission, it shall be presumed to have been approved thereby.

1. Application for Final Plat Approval. A person desiring the approval of a plat shall submit a written application for a certificate together with three (3) copies of the proposed plat as prescribed in Article VI hereof to the Planning Commission. Upon receipt of the application, the Commission if it tentatively approves the application, shall set a date for a hearing, notify the Subdivider Applicant in writing, and notify by general publication or otherwise any person or governmental unit having a probable interest in the proposed plat.
2. General Requirements Prerequisite to Approval of Plats. In determining whether an application for approval shall be granted, the Commission shall determine if the plat provides for:
 - a. Coordination of subdivision streets with existing arid planned streets or highways.
 - b. Coordination with an extension of facilities included in the Comprehensive Plan.
 - c. Establishment of minimum width, depth, and area of lots within the projected subdivision.
 - d. Distribution of population and traffic in a manner tending to create conditions favorable to health, safety, convenience, and the harmonious development of the city or county.
 - e. Fair allocations of areas for streets, parks, schools public and semi-public buildings, homes, utilities, business and industry.

As a further condition of approval of a plat the Commission shall specify:

- f. The manner in which streets shall be laid out, graded and improved.
 - g. Provision for water, sewage, and other utility services.
 - h. Provision for schools.
 - i. Provision for essential municipal services.
 - j. Provision for recreational facilities.
3. Improvements or Guarantee thereof. Before approving any subdivision plan for recording, the Planning Commission shall either require that all facilities specified in Article IV and V hereof shall have been installed in strict accordance with the standards and specifications of the Commission., or that the Commission be assured by means a proper contract and completion guarantee, as set forth in subsections and of section 33 hereof, that the improvements will subsequently be installed by the Subdivider.

Agreement to Complete Improvements. In all cases where the necessary grading, paving and other street improvements required herein shall not have been installed prior to final approval in strict accordance with the standards and specifications of the commission, the Applicant shall enter into a written agreement with the City and/or County in the manner and form approved by the City's or County's Attorney, wherein Applicant shall agree, to the extent applicable.

- a. To construct, or cause to be constructed, at his own expense, all streets, bridges, culverts, curbs, gutters, sidewalks, crosswalks, water systems, drainage facilities, street lighting facilities, street signs, monuments, sanitary

- sewerage, street shade trees and parks and other improvements shown on said subdivision plan, all in strict accordance with standards and specifications of the Commission or other appropriate public authority and within the time specified in said Agreement.
- b. To make adequate provision with the appropriate authority for the inspection of the construction of the aforesaid improvements to assure strict compliance with the County/City standards and specifications.
 - c. To maintain at his own cost the said streets, bridges, culverts, curbs, gutters, sidewalks, crosswalks, water systems, drainage facilities, street lighting facilities, street signs, monuments, sanitary sewerage, street shade trees, parks and other improvements until the same are accepted or condemned for public use by the County/City or other appropriate public authority, and for a period of one year thereafter to repair and reconstruct the same or any part or one of them when such repair or reconstruction shall be specified by the Planning Commission as necessary by reason of faulty construction, workmanship, or materials.
4. Conditional Approval of Final Plats. The Commission may approve a plat for a subdivision in which the improvements and installations have not been completed by the Applicant as required by these Regulations provided that the Subdivider enters into the Agreement described heretofore and provides a “Letter of Credit” from a bank or a bond which shall:
- a. Run to the City of the subdivision if located within the corporate limits of Taylorsville or to the County if located outside the corporate limits of Taylorsville.
 - b. Be in an amount determined by the Commission to be sufficient to complete the improvements and installations in compliance with these Regulations; to reimburse the City or County; for reasonable legal, engineering and inspection fees, and to obtain the easements required by section 409 thereof.
 - c. Be with surety satisfactory to the Commission.
 - d. Specify the time for the completion of the improvements and installations.
 - e. Letters of Credit or Bonds shall be posted for an initial period of three (3) years. If roads have not been completed within this three (3) year time period, the City or County may, at its discretion, call the letter of credit or bond or may enter into another agreement with the Developer and require another letter of credit or bond. Each phase of the project will be reviewed individually. If the development for a specific phase is under 90% (Obtained certificates of occupancy) complete at the three (3) year mark after the start of construction, the developer will provide a new estimate of construction costs of the phase in question incorporating the fuel and asphalt adjustment from the KYTC standard specifications. After receiving the submission of a new construction estimate, the Spencer County Road Foreman and Spencer County Engineer will meet and approve the revised bond amount. If any of the said streets are to be utilized for future construction phases of the subdivision, the bond will not be released until their completion.
 - f. One year after asphalt surface has been placed, the developer may contact Spencer County Road Foreman and County Engineer to review the site. If the

Spencer County Road Foreman/ County Engineer deem the site to be accepted, the developer may apply to release the bond.

- g. If a subdivision is proposed such that its only access points will be through one or more existing residential subdivisions, then the subdivider shall submit to the Spencer Road Foreman and Spencer County Engineer for its review and approval a method for compensating any private or county road maintenance authority for damage that occurs to subdivision/county roads under its jurisdiction from construction of new roads and structures in the proposed subdivision. Once the fee has been established by the County Engineer, that amount will be posted as part of the performance surety at the time of record plat approval.

Any funds received from these bonds or letter of credit shall be used by the City or County only for completion of the improvements and installations for which they were provided, and without prior appropriation. Please reference Section 313 for further bond details.

Section 309. Commission Action on Plat Approval or Disapproval

After hearing and within a reasonable time after application for approval of the plat, the Commission shall approve or disapprove it. If the Commission approves, it shall affix the Commission's seal upon the plat. If it disapproves, it shall set forth its reasons in its own records and provide the applicant with a copy.

DEDICATION OF IMPROVEMENTS

Section 310. Offer Of Dedication May Be Noted In Record Plan

Streets, parks, and other public improvements shown on a subdivision plan to be recorded may be offered for dedication to the City or an appropriate governmental agency by notation thereof on the plan, or the subdivider may note on the plan that such improvements have not been offered for dedication to the City or an appropriate governmental agency.

Section 311. Improvements Private Until Dedicated. Condemned or Acquired.

Every street, park or other improvement shown on a subdivision plan that is recorded, as provided herein, shall be deemed to be a private street, park or improvement until such time as the same has been offered for dedication to the County/City and accepted, by resolution, and recorded in the office of the County Clerk, or until it has been condemned for use as a public street, park or other improvement; or until purchased by a governmental agency.

DEVELOPMENT OF SUBDIVISION IN SECTION

Section 312. Submission in Sections

The Planning Commission may permit submission of the Final plat in sections provided that such sections conform to all the requirements of these Regulations.

SURETY REQUIREMENTS

Section 313. This section generally outlines procedures and guidelines for surety requirements for completing public improvements. Specific criteria for administration of these guidelines are to be adopted by the administrating authority, that person or entity responsible for administration of the surety requirements as appointed by the appropriate legislative body. A subdivider may begin construction of public improvements after the preliminary plat and construction plan have been fully approved. If such public improvements have not been fully constructed at the time of appropriate staff review and consideration of the record plat, the plat may be approved for recording prior to completion of such public improvements. For any such case, an acceptable surety shall be posted by the subdivider to cover the full cost of completing the public improvements. The following requirements and procedure shall apply:

- A. Acceptable Sureties - (1) An irrevocable letter of credit in favor of the appropriate legislative body from a bank with offices in the Commonwealth of Kentucky, (2) a performance bond in favor of the appropriate legislative body from a reputable bonding company acceptable to the administrating authority, or (3) a cash security in favor of the appropriate legislative body may be presented to the administrating authority as an acceptable surety. For the purposes of these regulations, the term "bonding" shall be construed to also include the posting of a letter of credit or cash as surety.
- B. Posting of Surety with Record Plat - The acceptable surety shall be presented to the administrating authority at the time the subdivider applies for record plat approval. The amount of the surety needed shall be based upon the project engineer's estimated cost of completing the required public improvements. The final amount of surety will be established by The Spencer County Road Foreman and County Engineer. The surety shall be accompanied by a performance agreement that establishes a completion date, after which the legislative body may contact the subdivider's bank or bonding company and cause the work to be completed.
- C. Reduction of Surety - Once road construction has been completed through the base course of asphalt and utilities have been installed, the subdivider may request one reduction in the amount of surety upon approval of the legislative body. The amount of the reduction shall be based upon a certification by the project engineer of the estimated cost of road and public improvements that remain to be completed and as authorized by the Spencer County Road Foreman and Engineer, however the surety shall not be reduced to less than the estimated cost to complete road construction plus an additional 50 percent, plus the costs to complete public improvements.
- D. Release of Surety - When the subdivider has completed all required improvements and has submitted a revised construction plan, the subdivider shall submit to the appropriate legislative body a written request for release of the surety. Upon inspection and determination by the Spencer County Road Foreman

and Engineer that all improvements have been properly constructed in conformance with these regulations, the legislative body shall release the surety. The legislative body may require certification from the project engineer concerning proper completion of the improvements. The legislative body may withhold partial surety for one year following completion of the required public improvements.

- E. Each phase of the project will be reviewed individually. If the development for a specific phase is under 90% complete at the three (3) year mark after the start of construction, the developer will provide a new estimate of construction costs of the phase in question incorporating the fuel and asphalt adjustment from the KYTC standard specifications. After receiving the submission of a new construction estimate, the Spencer County Road Foreman and Engineer will meet and approve the revised bond amount.
- F. Engineer's Certification - Whenever a project engineer's certification is required as stated above, one of the Certifications contained in the Appendices (Appendix C or Appendix D) shall be used.

APPENDICES

APPENDIX A: PRIVATE ROAD MAINTENANCE RESPONSIBILITIES

The owners of this property and any successors in title do hereby agree to assume complete liability and responsibility for any construction, reconstruction, cleaning, snow removal, or any other needs related to the maintenance of the private roads designated on this recorded plat. The owners of this property do hereby fully relieve local government from any maintenance responsibilities and fully understand that the private roads will not result in any reduction or reimbursement of taxes required and payable to local government. If the owners of this property should ever request local government to accept maintenance responsibility of these roads, the owners do fully agree to upgrade the private roads to public streets in conformity with all applicable standards and provisions specified in the current governmental regulations.

OWNERS: (Signature) (Date)

APPENDIX B: GOVERNMENT AND EMERGENCY ACCESS

The owners of this property and any successors in title do hereby agree to grant for government and emergency access purposes continuous rights of access to properties on this recorded plat over all designated road, utility, and access easements for purposes of government and emergency access.

OWNERS: (Signature) (Date)

APPENDIX C: CERTIFICATION OF PARTIAL COMPLETION

I hereby certify to the best of my knowledge and belief that the required public improvements that have been constructed meet or exceed the construction standards approved for this subdivision under local regulations, and I estimate that the cost to complete the remainder of the required public

improvements according to specifications should not exceed \$ _____ as itemized below.
(Engineer's signature) (Date) (Seal)

APPENDIX D: CERTIFICATION OF COMPLETION

I hereby certify to the best of my knowledge and belief that all required public improvements have been constructed, and that they meet or exceed the construction standards approved for this subdivision under local regulations.

(Engineer's signature) (Date) (Seal)