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4 PROCEDURE FOR SUBDIVISION APPROVAL

4-A EXPLORATORY SKETCH PLAN

- 4-A-1 All subdividers who intend to subdivide two or more acres of land or who intend to subdivide land for commercial or industrial use, regardless of the number of parcels, shall be required to prepare and submit an Exploratory Sketch Plan to the Zoning Administrator. The Exploratory Sketch Plan may be submitted at any time during normal office hours and shall be considered as submitted for informal discussion between the subdivider and the Zoning Administrator. This step does not require formal application fee or filing of a plat with the Planning Commission.
- 4-A-2 The Zoning Administrator shall then review the subdivision and offer comments relating to Town standards and requirements or provide suggestions for modifications or changes to be incorporated on the Preliminary Plat.
- 4-A-3 Following review by the Zoning Administrator of the Exploratory Sketch Plan and a meeting with the subdivider to discuss same, the subdivider may prepare the Preliminary Plat for formal submittal in accordance with the following terms of this Article.

4-B APPLICATION

A complete application for subdivision approval shall be filed with the Zoning Administrator at least 30 days prior to the date of the Commission meeting at which consideration thereon is desired. In the event notice of public hearing is required pursuant to Section 4-F-2-(a) herein, such application shall be filed at least 30 days prior to the Commission meeting at which such hearing may be scheduled. In the event streets are proposed for acceptance into the Virginia Department of Transportation's Road System, all plats, plans, maps and profiles in conformance with the specifications and requirements of the Department and this Ordinance shall be submitted for referral to the Resident Engineer at least 60 days before the date of the Commission meeting at which action on the application for subdivision approval is desired. A complete application for subdivision approval shall contain at least the following:

- 4-B-1 The applicant's name and address, and, where the applicant is not an individual, the form, date, and place of formation of the applicant.
- 4-B-2 Environmental Inventory and Impact Statement.
- 4-B-3 Consumer Disclosure Statement.
- 4-B-4 Preliminary Plat.
- 4-B-4-(a) Ten blue line or black line prints shall be submitted.

- 4-B-4-(b) The preliminary plat and all required supporting documents submitted shall conform in all ways with the requirements set forth in Article 7, Section B of this Ordinance.
- 4-B-5 Payment of Fee.
- 4-B-6 Plans for Water and Sewerage Facilities.
- 4-B-6-(a) A written report from the Clarke County Sanitary Authority identifying any specifications to be met as a condition to furnishing or operating such public water and/or sewerage.
- 4-B-6-(b) A certificate from the Clarke County Sanitary Authority evidencing agreement to accept such facilities and setting forth all conditions of the agreement for such acceptance.
- 4-B-6-(c) A written report from the Clarke County Health Department evidencing conformance of plans for such facilities with all applicable requirements and specifications of the Virginia Department of Health.
- 4-B-7 Certificate signed by the Resident Engineer of the Virginia Department of Transportation evidencing approval of the proposed design and construction of all streets, as defined in Section 2-B-42 herein. Said certificate shall also verify that all streets will be accepted into the state Highway System for maintenance at such time that criteria for establishment of genuine public need is satisfied, provided such streets are constructed in accordance with the approved plans and profiles and are in good condition.

4-C ACCEPTANCE FOR FILING

- 4-C-1 The Zoning Administrator shall review the Preliminary Plat and other documents submitted with the application to determine if they conform to the technical requirements of this Ordinance. If in conformance, the application will be accepted for filing.
- 4-C-2 Applications for the same or substantially similar subdivision shall not be accepted or considered for all or any part of property for which a Preliminary Plat or Record Plat has been disapproved by the Planning Commission during the 12 months immediately preceding the application. Such application shall address, at a minimum, those criteria that were cited as the basis of denial.

4-D PUBLIC DISCLOSURE

The Preliminary Plat and other documents comprising an application shall be available for public viewing in an office designated by the Zoning Administrator.

4-E REPORT TO PLANNING COMMISSION

- 4-E-1 Copies of the Preliminary Plat shall be distributed to all members of the Planning Commission and to any or all of the following agencies that may exist, and any other agencies, as deemed necessary by the Zoning Administrator:

Town Engineer
Clarke County Sanitary Authority
Clarke County School System
Clarke County Health Department
Clarke County Department of Parks and Recreation
Lord Fairfax Soil Conservation Technician
Resident Engineer, Virginia Department of Transportation

- 4-E-2 After the Zoning Administrator has received review comments from the agencies and officials to which the Preliminary Plat has been referred, a report shall be prepared and submitted to the Planning Commission.

4-F PUBLIC HEARING

- 4-F-1 A public hearing shall be required for any proposed subdivision, and the Planning Commission shall give notice of a public hearing in accordance with Section 4-F-2 of this ordinance.
- 4-F-2 Public hearings held by the Planning Commission shall be held in accordance with Section 15.2-2204 of the Code of Virginia, 1950, as amended. In accordance with Section 15.2-2206 of the Code of Virginia, 1950, as amended, the subdivision applicant shall be responsible for providing the notice required in Section 4-F-3-(b); and shall bear the cost of said notice. The applicant shall be required to supply the names of those persons that were required to be notified and certify that said notice was sent. The certification of notice and a listing of the persons to whom notice was sent shall be supplied by the applicant to the zoning administrator at least five days prior to the public hearing. Any person entitled to notice may waive such right in writing. In accordance with applicable regulations, before such hearings, the following is required:
- 4-F-2-a Notice of the intended action shall be published once a week for two successive weeks in some newspaper publishing or having general circulation in the Town of Boyce. Such notice shall specify the time and place of the hearing at which persons affected may appear and present their views, not less than five days nor more than twenty-one days after the second advertisement shall appear in such newspaper.
- 4-F-2-b At least 15 days preceding the hearing, the applicant shall erect on the parcel to be subdivided, a sign or signs, indicating the nature of the request and the body reviewing the request. If the public hearing concerns more than five parcels, the number and location of signs to be posted shall be determined by the Zoning Administrator. The Zoning Administrator may require a reasonable deposit for each sign furnished to the applicant. The sign shall be erected by the applicant within 10 feet of whatever boundary line of such land abuts a public road and shall be so placed as to be clearly visible from the road with the bottom of the sign not less than one foot above the ground. Such sign shall not be erected in the public right-of-way. If more than one such road abuts the property, or if no public road abuts thereon, then the number and location of signs shall be determined by the Zoning Administrator. If no public road abuts thereon, then signs shall be placed in the same manner as above on at least one (or as many as is deemed necessary by the Zoning Administrator) boundary of the property abutting land not owned by the applicant. Any

sign erected as required by this Section shall be maintained at all times by the applicant up to the time of the hearing. It shall be unlawful for any person, except the applicant or the Zoning Administrator, or authorized agent of either, to remove or tamper with a required sign during the period it is required to be maintained under this Section. The applicant shall remove all signs erected under this Section within 15 days following the public hearing for which it was erected. Failure to return the undamaged sign or signs within the prescribed time period will result in the forfeiture of the sign deposit.

- 4-F-2-c Written notice shall be given at least five days before the hearing to the owners (as shown on the current real estate assessment records of Clarke County) of all abutting property and property immediately across the street or road from the property to be subdivided. If such notice is sent by an applicant other than a representative of the Planning Commission, it shall be sent by registered or certified mail. If such notice is sent by a representative of the Commission, the notice may be sent first class mail; provided that the representative make affidavit that such mailings have been made and file such affidavit with the records of the case.
- 4-F-2-d At least 15 days preceding the hearing, the applicant shall erect on the parcel to be subdivided, a sign or signs, in such number as are furnished by the Zoning Administrator, indicating the date, time, and place of the hearing. The Zoning Administrator may require a reasonable deposit for each sign furnished to the applicant. The sign shall be erected by the applicant within 10 feet of whatever boundary line of such land abuts a public road and shall be so placed as to be clearly visible from the road with the bottom of the sign not less than one foot above the ground. Such sign shall not be erected in the public right-of-way. If more than one such road abuts the property, then at least two signs shall be erected in the same manner as specified above, along at least two abutting roads. If no public road abuts thereon, then signs shall be placed in the same manner as above on at least one (or as many as is deemed necessary by the Zoning Administrator) boundary of the property abutting land not owned by the applicant. Any sign erected as required by this Section shall be maintained at all times by the applicant up to the time of the hearing. It shall be unlawful for any person, except the applicant or the Zoning Administrator, or authorized agent of either, to remove or tamper with a required sign during the period it is required to be maintained under this Section. The applicant shall remove all signs erected under this Section within 15 days following the public hearing for which it was erected. Failure to return the undamaged sign or signs within the prescribed time period will result in the forfeiture of the sign deposit.
- 4-F-2-e At the hearing, the applicant shall submit an affidavit that he/she has fully complied with the requirements of this Section as to provision of written notice and posting of the property.
- 4-F-2-f If any hearing is continued, to an unspecified date, written notice shall be re-mailed for the notification of the date of continuation to those parties that received notice of the previous hearing, in accordance with Sections 4-F-2-(b) and 4-F-2-(d) of this Ordinance.

4-G ACTION ON PRELIMINARY PLAT

- 4-G-1 Within 60 days of the date of the meeting of the Planning Commission at which a complete application is submitted to the Commission, the Commission shall approve, conditionally approve, or deny the Preliminary Plat.
- 4-G-2 The Commission shall approve the Preliminary Plat provided that the Commission finds the Plat and all required supporting documents meet the requirements of this Ordinance, any other applicable ordinances and regulatory requirements, including the requirements of Section 4-G-2-(b), below. Otherwise, the Commission shall deny the Preliminary Plat.
- 4-G-2-a In making its determination, the Commission shall consider, where applicable, the Comprehensive Plan, the Zoning Ordinance, the Erosion and Sediment Control Ordinance, the Environmental Inventory and Impact Statement, the Consumer Disclosure Statement, Clarke County Sanitary Authority requirements and regulations, Virginia Department of Transportation requirements and regulations, agency comments pursuant to Section 4-E of this Ordinance, and any other applicable statutes, ordinances, or regulations.
- 4-G-2-b In order to approve the Preliminary Plat, the Commission, in considering the matters set forth in Section 4-G-2-(a), above, shall determine, without limitation, that the subdivision as set forth in the Preliminary Plat:
1. Will not cause unreasonable soil erosion or reduction in the capacity of the land or water so that a dangerous or unhealthy condition may result.
 2. Will not cause unreasonable highway congestion or unsafe conditions with respect to the use of the highways existing or proposed, and has adequate road access. In making this determination, it shall consider the width and grade stability, and whether or not the increase in traffic volume, which would be generated by the proposed subdivision, would create a hazard to public safety or seriously aggravate an already hazardous condition.
 3. Has adequate drainage. In making this determination, it shall consider whether or not the surface or subsurface water retention and/or runoff is such that it constitutes a danger to the structural integrity of proposed dwelling units or other proposed on site structures, and whether or not proposed site grading and development will create harmful or damaging effects from erosion and siltation on downhill or downstream land.
 4. Will not have an undue adverse effect on existing or proposed septic systems or water supply systems in adjacent areas.
- 4-G-3 If the Commission denies or conditionally approves the Preliminary Plat, the reasons for such action shall be stated in writing.
- 4-G-3-a If the Commission conditionally approves the Preliminary Plat, the conditions shall be set forth in writing.
- 4-G-3-b If the Commission denies the Preliminary Plat, the reasons for the denial shall be set forth in writing, and if there are specific corrections or modifications which will permit approval of the Preliminary Plat, such corrections or modifications shall be set forth in writing. Any Preliminary Plat that is denied shall be subject to the provisions of Section 4-C-2.

- 4-G-4 Approval of the Preliminary Plat may be conditioned upon, among other things, the subdivider including in the Deed of Dedication of the property, and/or in the deed of conveyance for each lot within the subdivision, restrictive covenants required by this Ordinance and agreed to by the subdivider in hearings before the Commission. In the event any lot or lots within a proposed subdivision are to be served by one or more private access easements, restrictive covenants as required by Section 5-B-5-(c) of this Ordinance shall be included in the Deed of Dedication of the property and in the deed of conveyance for each lot so served.
- 4-G-5 Additional time may be granted the applicant for submission of revised plans, or the Commission may require additional time for review of a Preliminary Plat stating its reasons for doing so in writing.
- 4-G-6 Conditional approval by the Commission shall not obligate the Commission to approve the Record Plat.
- 4-G-7 Term of Validity of Preliminary Plats
(12/7/2010)
- 4-G-7-(a) Once a preliminary subdivision plat is approved, it shall be valid for a period of five years, provided the subdivider (i) submits a final subdivision plat for all or a portion of the property within one year of such approval, and (ii) thereafter diligently pursues approval of the final subdivision plat. "Diligent pursuit of approval" means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision or modifications thereto. However, no sooner than three years following such preliminary subdivision plat approval, and upon 90 days written notice by certified mail to the subdivider, the Zoning Administrator may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.
(12/7/2010)
- 4-G-7-(b) Once an approved final subdivision plat for all or a portion of the property is recorded, the underlying preliminary plat shall remain valid for a period of five years from the date of the latest recorded plat of subdivision for the property. The five year period of validity shall extend from the date of the last recorded plat.
(12/7/2010)
- 4-G-8 No property shall be transferred or offered for sale, nor shall a permit to build be issued, on the basis of an approved Preliminary Plat.
- 4-G-9 The Commission may act upon the plat submitted as a Preliminary Plat and as a Record Plat, in accordance with the criteria provided in this Article for actions on the Preliminary and Record Plat. Such action may be taken, if requested to do so by the applicant, if the plan submitted conforms to the requirements of this Ordinance for a Record Plat, and if all necessary supporting documents have been filed.

4-H SUBMISSION OF PLANS AND PROFILES

- 4-H-1 The following items shall, when necessary, be submitted to the Commission after final approval of the Preliminary Plat and before submission of the Record Plat:
 - 4-H-1-a Five copies of the complete Construction Plans and Profiles, including storm sewer design computations and storm water inlet computations.
 - 4-H-1-b Five copies of the Construction Specifications and Plans for structures such as parking areas, drainage systems and/or structures, or any special structures or systems the Planning Commission may decide warrant individual engineering review.
 - 4-H-1-c Five copies of Traffic Control Plan, including all signs, signals, street signs or other devices for traffic control.
- 4-H-2 Copies of the above items shall be distributed by the Commission to the Virginia Department of Transportation or any other agency deemed necessary for review of said documents.
- 4-H-3 No Record Plat shall be accepted for review by the Planning Commission until all the aforementioned items have been reviewed and approved by the appropriate authorities.

4-I SUBMISSION OF RECORD PLAT

- 4-I-1 After approval of the Preliminary Plat, ten copies of the Record Plat, at least four of which shall evidence original signatures for all required certificates and approvals, shall be submitted to the Zoning Administrator not less than 15 days prior to the Commission meeting at which consideration thereon is desired.
- 4-I-2 Upon receipt of the Record Plats and all documents and requirements as specified in Article 7 of this Ordinance, the Zoning Administrator shall determine that the Record Plat and documents comply with all applicable rules and regulations, all applicable decisions of the Commission, and all conditions imposed at the time of conditional approval, if any, of the Preliminary Plat.

4-J ACTION ON RECORD PLAT

- 4-J-1 Within 60 days of the date of the meeting of the Planning Commission at which the Record Plat and all other required items are submitted to the Commission, the Commission shall approve, conditionally approve, or deny said Record Plat.
- 4-J-2 The Commission shall approve the Record Plat, provided:
 - 4-J-2-a The Commission finds that the Record Plat is substantially in accordance with the approved Preliminary Plat and the requirements and provisions of this Ordinance, and that all supporting documents and other items required by this Ordinance and/or the Commission are satisfactory;
 - 4-J-2-b The Commission finds that all certificates and approvals by other public officials and the performance bond, check, or other acceptable surety required by Town of Boyce and/or other political subdivisions and public agencies are adequate; and

- 4-J-2-c The Commission finds that nothing has come to the attention of the Commission subsequent to its approval of the Preliminary Plat that indicates that the proposed subdivision is materially adverse or contrary to the requirements and purposes of this Ordinance, or is detrimental to the public health, safety, or general welfare.

- 4-J-3 Otherwise, the Commission shall deny the Record Plat.

- 4-J-4 If the Commission conditionally approves the Record Plat, the conditions shall be set forth in writing.

- 4-J-5 If the Commission denies the Record Plat, the reasons for the denial shall be set forth in writing, which reasons shall identify deficiencies in the Record Plat that caused the disapproval by reference to specific adopted ordinances, regulations, or policies, and, if there are specific corrections or modifications that will permit approval of the Record Plat, such corrections or modifications shall be generally identified. Any Record Plat that is disapproved shall be subject to the provisions of Section 4-C-2.

4-K RECORDATION OF PLATS

(12/7/2010)

4-K-1

(12/7/2010)

Any owner or proprietor of any tract of land within the Town of Boyce, Virginia, who subdivides the same as herein provided, shall cause a plat of such subdivision to be made in accordance with the regulations set forth in this Ordinance and in the Virginia Land Subdivision and Development Act, and shall further cause a copy of such plat evidencing approval as required herein and a copy of a Deed of Dedication, as may be required herein, to be recorded in the Office of the Clerk of the Circuit Court of Clarke County, Virginia.

4-K-2

(12/7/2010)

No subdivision plat shall be recorded unless and until it shall have been submitted to and approved by the Boyce Town Planning Commission as herein provided and is in full accordance with the regulations set forth in this Ordinance.

4-K-3

(12/7/2010)

No subdivision plat shall be recorded unless all the monuments shown and described on the Record Plat are in place as evidenced by the certificate of a licensed surveyor endorsed on said Plat.

4-K-4

(12/7/2010)

A record plat shall become null and void if it is not submitted to the Clerk of the Circuit Court of Clarke County for recordation within six months from the date evidencing approval by the Planning Commission. The Commission may approve a longer period before recordation is required. The owner of the property being subdivided must submit a written request to the Zoning Administrator for such a longer period within six months of the date of the Commission's original approval. In any case where construction of facilities to be dedicated for public use has commenced pursuant to an approved plan or permit with surety approved by the Planning Commission, or where the developer has furnished surety to the Planning Commission by certified check, cash escrow, bond or letter of credit in the amount of the estimated cost of construction of such facilities, the time limit for plat recordation shall be extended to one year after final approval or to the time limit specified in the surety agreement approved by the Planning Commission,

which ever is greater.

4-K-5
(12/7/2010)

Recordation of the Record Plat of a subdivision shall not be deemed to be the acceptance by the Town of any street or road or other public place shown on the plat for maintenance, repair or operation thereof.

4-L BURDEN OF PROOF

The burden of proof shall be on the applicant to show that the subdivision and the plats submitted meet the requirements of this Ordinance, including the provisions of Sections 4-G-2 and 4-J-2.