

Article XVI.

**Guarantee of Completion of Improvements
&
Warrantee Actions on Infrastructure Completion**

16.1 INSTALLATION OF REQUIRED IMPROVEMENTS.

The subdivider/developer shall be responsible for the provision of all required improvements to the subdivision/development. This may be accomplished by either the full installation of all required improvements by the developer at the time the Final Plat is to be submitted to the Planning Commission, or by the provision of a financial guarantee of performance.

- A. Provisional final approval can be given by the Planning Commission under extenuating circumstances, provided that a financial guarantee in the form of a surety bond shall be given in the amount equal to one hundred twenty-five (125) percent of the cost as estimated by an independent source of installing all improvements, including grading, paving of the streets, and installation of all required utilities, and fees encountered during execution of improvements. The surety bond will be made payable to the City of Robertsedale and will be held until all improvements are meet per the specifications of the City. Once the development is satisfactory constructed, the developer on said action will request the release of said bond through the Planning Commission, and the Planning Commission will then notify the City for said release.
- B. Failure to Complete Work. If within twelve (12) months after filing said surety, the subdivider/developer has not completed all necessary improvements or if in the opinion of the City Planning Commission said improvements have not been satisfactorily installed, the bond shall be used by the City to complete the improvements in satisfactory fashion, or the City may take such steps as may be necessary to require performance under the bond.

16.2 INSPECTION AND CERTIFICATION OF IMPROVEMENTS.

The Public Works Director shall regularly supervise inspection for defects in the construction of the required improvements or assigns such work. The applicant shall pay to the City an inspection fee of \$20.00 per lot for the initial inspection. If additional inspections are required, additional fees shall be required in the amount of \$10.00 per lot and the Chairman of the Planning Commission shall not sign the subdivision plat until the applicant has paid all fees. These fees shall be due and payable upon demand by the City. If the Public Works Director finds upon inspection that any of the required improvements have not been constructed in accordance with the City's adopted construction standards and specifications,

the applicant shall be responsible for completing the improvements. Wherever a surety covers the cost of improvements, the applicant and the surety company shall be severally and jointly liable for completing the improvements according to specifications.

Upon completion of the improvements, the applicant shall file with the Planning Commission a statement stipulating the following:

1. That all required improvements are complete;
2. That these improvements are in compliance with the minimum standards specified by the Planning Commission and the City for their construction;
3. That the applicant knows of no defects from any cause in these improvements; and,
4. That these improvements are free and clear of any encumbrance or lien.

The applicant shall also file with the City an agreement dedicating all said improvements of the development.

Upon completion of these improvements, the Public Works Director shall file with the City Commission a statement either certifying that the improvements have been completed in the specified manner or listing the defects in these improvements.

If the Public Works Director has certified that the contracted improvements are complete and free from defect, then upon receipt of the other statements and agreements detailed above, the City may accept the dedication of these improvements. The City may, at its discretion, accept the dedication of any portion of the required improvements, provided that all statements and agreements specified above have been received for that portion of the improvements.

16.3 REDUCTION OF GUARANTEE.

In those cases where an improvement guarantee has been made under subsection 16.1.A of these regulations, the amount of the surety may be reduced upon acceptance, in compliance with these regulations, of the dedication of a portion of the required improvements. A surety shall be reduced upon actual dedication of public improvements and then only to the ratio that the public improvement dedicated bears to the total public improvements for the plat. In no event shall a surety be reduced below twenty-five percent (25%) of the principal amount.

16.4 RELEASE OF GUARANTEE.

Upon acceptance, in accordance with these regulations of the dedication of the final portion of improvements, the City Council shall authorize the release of the remaining portion of the improvement guarantee.

16.5 ACCEPTANCE OF IMPROVEMENTS.

Guarantee Against Faulty Material and Workmanship. The City only in accordance with one of the following requirements shall grant final approval of all improvements on said development:

- A. Said improvements shall have been completed and in place for a period of one year and shall, upon inspection following such period of time, be found to be free from defective workmanship or material and free from sink-holes or other settling.

- B. Following satisfactory completion of such work, the subdivider shall post with the City a guaranty bond in an amount equal to ten (10) percent of the improvement cost on said project for which acceptance is sought. Said bond will guarantee the City that the installation and workmanship is in acceptable condition for a period of one year. Said guaranty bond shall be effective for a period of one year. If at the end of the one year period the improvements is found to be defective or to be otherwise unacceptable because of faulty workmanship or material, said defects shall be repaired at the cost of the developer up to the amount of the guaranty bond, and upon the developer's failure or refusal to do so within 90 days after demand is made upon them by the City. Then the City shall make such repairs as are reasonably necessary, and recover the cost thereof.

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Article XVII.

Variances

17.1 GENERAL.

Where the Planning Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that such variance shall not have the effect of nullifying the intent and purpose of these regulations. Any application for a variance shall first be submitted to the Public Works Director for recommendation to the Planning Commission. The applicant shall submit an application for a variance in writing at the time when the Preliminary Plat is filed for the consideration of the Planning Commission. The application shall state fully the grounds for the variance and all of the facts relied upon by the applicant. The variance if approved by the Planning Commission shall become part of the official record of the Planning Commission and shall be noted on the Final Plat. The Planning Commission shall not approve a variance unless it shall make findings based upon the evidence presented to it in each specific case that:

1. The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property;
2. The condition upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property;
3. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are carried out;
4. Owners of land who deed property to a descendent or next of kin, shall be exempt from these regulations; however, descendants must comply with all regulations, if further land subdivision is undertaken by them.
5. The variance will not in any manner vary the provisions of other adopted policies and regulations of City of Robertsdale.

17.2 CONDITIONS.

In approving variances, the Planning Commission may require such conditions as will, in its judgement, secure substantially the objectives, standards or requirements of these regulations.

The Planning Commission shall not grant any variance within the Flood Plain unless the developer submits a study prepared by a registered professional engineer certifying that no increase in the 100-year flood level would result from the proposed development.

Within other areas subject to flooding, variances shall only be issued upon a determination by the Planning Commission that the relief granted is the minimum necessary considering the flood hazard.

17.3 EXPERIMENTAL SUBDIVISIONS/DEVELOPMENTS.

The Planning Commission may waive, vary, or modify the standards and requirements of these regulations, if in its judgement, (1) an unusual or experimental subdivision/development might prove of considerable merit toward the use of unusual materials in constructing required improvements or (2) a new or untried design concept in the City of Robertsedale area which appears promising.

Special attention may be given to experimental subdivisions, which are related to low-cost housing design or energy conservation. The Planning Commission shall require the applicant to provide a written proposal stating the nature of the experiment and cost-benefit study following the implementation of it.

- A. Conditions. In granting variances, modifications, and approval for experimental subdivisions/developments, the Planning Commission may require such conditions as will, in its judgement, secure substantially the objectives of the standards or requirements so varied, modified, or approved. These may include, without being limited to: personal, surety, performance, or maintenance bonds, affidavits, covenants, or other legal instruments.

17.4 SPECIAL REQUIREMENTS FOR NONRESIDENTIAL SUBDIVISIONS

- A. General Procedural Requirements It is recognized that the applicant, in creating nonresidential subdivisions/developments, faces unique problems of lot design not normally encountered in residential subdivisions. For this reason, the initial emphasis of the Planning Commission shall be upon street layout and block arrangement. Generally, the procedural requirements shall be for the applicant to follow the regular procedure outlined in Article XIV and to show the entire tract to be subdivided with necessary improvements and as many parcels as he cares to show but

must include at least two parcels. Then, from time to time, as prospective buyers express interest in lots sized to their required specifications, and following informal discussions with the Planning Commission if the applicant so requests, the applicant shall submit directly at a regular meeting of the Planning Commission an amendment to the preliminary plat for approval. Regular procedural requirements of the Planning Commission following receipt of a Final Plat shall then apply.

- B. Other Special Requirements. In addition to the principles and standards in these regulations which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the Planning Commission that the street, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed.
1. Proposed nonresidential street layout, blocks, and parcels shall be suitable in area and dimensions to the types of development anticipated.
 2. Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas, nor connected to streets intended for predominantly residential traffic, but shall be connected insofar as is possible to expressways, arterial, or collector streets in such a way that the number of intersections with such expressways, arterial, or collectors shall be minimized.
 3. Street rights-of-way and pavement shall be adequate and in accordance with Section 14.9 to accommodate the type and volume of traffic anticipated to be generated thereon. Curb radii at driveway intersections shall be at least 25 feet.
 4. The applicant shall insure that the nonresidential subdivision as a whole may be self-sufficient with regard to providing necessary off-street parking. The applicant may make parking self-sufficiency a requirement of individual lots.
 5. With respect to physical improvements, special requirements may be imposed by the Planning Commission with the advice of the Public Works Director within the nonresidential subdivision.
 6. Every effort shall be made to protect adjacent residential areas from potential nuisances from nonresidential subdivisions, including the provision of extra depth in parcels backing up on existing or potential residential developments and provision for a permanently landscaped buffer strip when necessary.

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