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Section 3.2 Types of Applications and Permits

Application and permit types can be categorized as (a) Policy Related Applications and Permits, (b) Subdivision-Related Applications and Permits, or (c) Development-Related Applications and Permits. Review authorities for applicable development applications and permits are described in Table 3.1, below. The Administrative Procedures Manual (developed by the City Manager) establishes timelines for review and references applicable fees established by City Council. Certain procedures apply inside city limits that do not apply in the ETJ. Table 3.1 also provides guidelines for the procedures that apply in the city limits or ETJ.

(3) Site Development Related Applications and Permits

Development in the City must occur in compliance with all regulations of this Code, and development in the extraterritorial jurisdiction must occur in compliance with certain elements of this Code (See Section 1.4 and Table 3.1 for applicability of requirements to the ETJ). Any necessary modification to those standards must occur before a development project may be permitted that deviates from existing plans, standards, or requirements. In addition, land must be appropriately subdivided and platted before any development project may occur. Development related applications and permits include Letters of Regulatory Compliance (Zoning Verification Letter and Legal Lot Verification Letter), Written Interpretation of this Code, Master or Common Sign Plans, Temporary Use Permits, Special Exceptions, Site Plan Reviews and Site Development Permits, Stormwater Permits, Certificate of Design Compliances, Appeal of Administrative Decisions, Variances, Sign Permits and On-Site Wastewater (OSSF) Permits. Before any new well may be drilled or completed it must be registered with the appropriate underground water district and receive specific authorization before drilling commences.

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Table 3.1: Summary of Review Authority

| Permit or Application | Within City Limits | Within ETJ | | Pre-application Conference | Administrative Review | Planning and Zoning Commission | Zoning Board of Adjustment | City Council | Appropriate County |
|--|--------------------|------------|--|----------------------------|-----------------------|--------------------------------|----------------------------|--------------|--------------------|
| POLICY RELATED APPLICATION PERMITS | | | | | | | | | |
| Comprehensive Plan Amendment | + | + | | o | o | o | | x | |
| UDC Text Amendment | + | | | o | o | o | | x | |
| Special Use Permit | + | | | o | o | o | | x | |
| Zoning Map Amendment (Zoning or Rezoning) | + | | | o | o | o | | x | |
| Planned Unit Development | + | | | o | o | o | | x | |
| Conservation Development Alternative (CDA) | + | | | o | o | o | | x | |
| Annexation | | + | | o | o | | | x | |
| Concept Plan (if required) | + | | | o | o | o | | x | |
| Development Agreement | + | + | | o | o | o | | x | |
| PROPERTY DEVELOPMENT RELATED APPLICATIONS AND PERMITS | | | | | | | | | |
| Zoning Verification Letter | + | | | | x | | | | |
| Letter of Regulatory Compliance | + | + | | | x | | | | |
| Appeal of Administrative Decision (Zoning) | + | + | | | | | x | | |
| Appeal of Administrative Decision (All others) | + | + | | | | | | x | |
| Special Exception | + | + | | | o | | x | | |
| Policy Variance (Standards that are not required in the UDC and are Non-zoning related development standards or other city wide policies.) | + | + | | o | o | o | | x | |
| Judicial Variance (zoning-related development standards of this Code required by the UDC, ex. Setbacks, Building Frontage, Landscaping, Parking, etc. that are not related to or required for platting or subdivision approvals) | + | | | o | o | | x | | |
| Plat waivers/ Subdivision Variance (Waivers of the standards required for plat approval and are contained in the Subdivision regulations during the plat process) | + | + | | | o | o | | x | |
| Floodplain Development Permit | + | + | | | x | | | | |
| Master/Common Sign Plan | + | + | | | x | | | | |
| Sign Permit | + | + | | | x | | | | |
| Relief from Signage (Variance) | + | + | | | o | | x | | |
| Master Signage Plan | + | + | | | x | | | | |
| Appeal of Denial of Sign Permit | + | + | | | o | | x | | |
| Temporary Use Permit | + | + | | | x | | | | |
| On-site Wastewater (OSSF) Permit | + | + | | | | | | | x |
| Building Permit | + | | | o | x | | | | |
| Certificate of Occupancy | + | | | | x | | | | |
| Group Living Operating License | + | | | o | x | | | | |
| SUBDIVISION RELATED APPLICATIONS | | | | | | | | | |
| Minor Plat | + | + | | o | x | | | | |
| Amending Plat | + | + | | | x | | | | |
| Replat | + | + | | o | o | o | | x | |
| Development Plat | + | + | | o | o | o | | x | |
| Preliminary Plat | + | + | | | o | o | | x | |
| Final Plat | + | + | | | o | o | | x | |
| Construction Plan | + | + | | | x | | | | |
| <p>+ - Applicable; X - Final Action; O - Review/Recommendation In the event of a conflict between this chart and the applicable written text, the written text will control.</p> | | | | | | | | | |

Section 3.8 Subdivision and Property Development Related Applications

This section applies to the following subdivision-related applications:

- Administrative Plats
- Preliminary Plat
- Final Plat
- Replat
- Development Plat
- Construction Plans

(7) **Plat** Waivers

Waivers of the standards required for plat approval are not considered variances and must be requested during the plat submittal and review process. The Commission may recommend to City Council the approval, approval with conditions, or disapproval of plat waivers. ~~of the standards required for plat approval, by using the criteria for consideration of Variances in Section 3.9. The request for waivers will be approved prior to approval of Plats.~~

- a. Applicability. A representative list of plat elements or features subject to the plat waiver process include the following:
 - I. Lot Dimensions
 - II. Plat Notes
 - III. Easement Dimensions
 - IV. Lot Street Frontage Width
 - V. Block Length
 - VI. Cul-de-sac dimensions
- b. For plat elements or features not listed in Section 3.8 (7) (a), the City Manager or designee shall have the authority to determine if a request is a plat waiver or a variance.
- c. Criteria for plat waiver review:
 - I. Granting of the waiver will not be detrimental to public health, safety, or welfare, or injurious to other property in the area
 - II. Generally conforms to the Comprehensive Plan
 - III. Will not result in the need for additional waivers and/or variances
 - IV. Will not create an undue hardship for adjacent property owners
 - V. Remains compliant with state and federal requirements and associated agencies
 - VI. Will not result in creating an undevelopable lot
- d. Responsibility for Final Action. The City Council is responsible for final action on all plat waivers.

Section 3.9 Site Development Related Applications

This section applies to general issues related to development within the City of Fair Oaks Ranch and within the City’s extraterritorial jurisdiction (ETJ).

- Letter of Regulatory Compliance
- Written Interpretation of the Unified Development
- Master or Common Sign Plan
- Temporary Use Permit
- Special Exception
- Site Plan Review, Site Development Permit, and Floodplain Development Permit

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- Stormwater Permit
- Certificate of Design Compliance (reserved)
- Appeal of an Administrative Decision
- Variance
- Sign Permit
- On-Site Sewage Facility Permit (OSSF)
- Building Permits
- Certificates of Occupancy
- Relief from Signage Regulations
- Group Living Operators License

(9) Variance

a. Applicability:

- Judicial Variance. The Zoning Board of Adjustment will have the authority to hear and grant requests for a Variance or exception to the zoning-related development standards of this Code.
- Policy Variance. The City Council will have the authority to hear and grant requests for a Variance from all other development standards upon the recommendation of the Planning and Zoning Commission.
- ~~iii. —Waivers of plat approval standards. Waivers of the standards required for plat approval are not considered Variances and must be requested from the Planning and Zoning Commission and then the City Council during the plat review process. These waivers must be approved prior to approval of the plat.~~
- Minimum or Maximum Measurement. Any Variance request up to ten (10) percent of any minimum or maximum measurement required by this Code may be treated as a Special Exception as per Section 3.9 of this Unified Development Code
- Precedent. A Variance to the development standards of this Code will be considered an exception to the regulations contained herein. Granting of a Variance in one case does not set a precedent for a subsequent case. Each Variance request will be judged on its own merit based on subparagraph (b) below.

Section 4.6 Zoning Districts

The following Zoning Districts reflect the existing land uses, applicable zoning districts, and recommended future land use classifications included in the City of Fair Oaks Ranch's Comprehensive Plan's Future Land Use Map (FLUM). Portions of the City of Fair Oaks Ranch, as specified on the Official Zoning Map of the City, are hereby divided into the following zoning districts. (Refer to Table 4.2 for allowable uses within each Zoning District):

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Table 4.1 Zoning Districts

| RESIDENTIAL DISTRICTS | ZONING ABBREVIATIONS | EQUIVALENT FLUM CLASSIFICATION |
|--------------------------------------|-----------------------------|---|
| Neighborhood Residential | NR | Neighborhood Residential |
| Existing Residential 1 | R1 | Existing Residential 1 |
| Existing Residential 2 | R2 | Existing Residential 2 |
| Existing Residential 3 | R3 | Existing Residential 3 |
| Existing Residential 4 | R4 | Existing Residential 4 |
| NON-RESIDENTIAL DISTRICTS | | |
| Mixed Use Village | MU | Mixed Use Village |
| Neighborhood Commercial | NC | Neighborhood Commercial |
| Community Facilities | CF | Community Facilities |
| Logistics | LO | Logistics |
| Parks/Open Spaces/Existing Parks | OS | Parks/Open Spaces/Existing Parks |
| SPECIAL DISTRICTS | | |
| Planned Unit Development | PUD | None |
| Conservation Development Alternative | RR or NR | Rural Residential or Neighborhood Residential |

(1) Residential Districts

All residential development shall adhere to applicable development standards found in Chapter 5, Subdivision Standards and Chapter 6, Site Development Standards, as well as other applicable standards found in this UDC.

a. Rural Residential District (RR)

The Rural Residential District (RR) is a residential district that includes land subdivided for single-family residential purposes and associated uses. The lots are a minimum of 5 acres (or ~~an average of 3.75~~ 1.75 acres using the Conservation Development Alternative ~~Minimum in Section 8.3~~ to incentivize conservation areas), and are generally not served by urban infrastructure, such as City sewer service. This district is intended to retain a rural character. Residences in the RR district is appropriate primarily for direct access to Local Rural Residential streets. In addition to applicable City ordinance requirements, the lot, building, landscaping and other similar standards are regulated through private deed restrictions in these neighborhoods and owners are strongly encouraged to review their deed restrictions before beginning a development project. The City does not enforce private deed restrictions or HOA regulations.

b. Neighborhood Residential District (NR)

The Neighborhood Residential District (NR) serves as the residential district for areas where low-to-medium density development is appropriate in Fair Oaks Ranch. The lots are a minimum of 1 acre (or

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~~an average of 0.750.5~~ acres using the Conservation Development Alternative ~~Minimum in Section 8.3~~ to incentivize conservation areas). The NR district allows a variety of lot sizes and housing. NR developments provide pedestrian-friendly residential district allows a variety of lot sizes and housing. NR developments provide pedestrian-friendly residential neighborhoods, protected from incompatible uses. Residences in the NR district is appropriate primarily for direct access to Local Connector streets, Local Neighborhood Residential streets and Rural Residential streets. In addition to applicable City

Section 8.3 Conservation Development Alternative

A Conservation Development is a development of land, occupying ten (10) contiguous acres or more, that is developed in a manner consistent with LID principles as per Section 8.2 (2) of this UDC, is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may cover more than one parcel as long as all parcels are contiguous, but the entirety of each included parcel will be included in the gross area of the development. The requirements for approval are similar to a Planned Unit Development according to this UDC. A Conservation Development requires a certain amount of permanently protected Conservation Area and allows flexibility on ~~minimum~~ lot sizes and densities. A Conservation Development must be clearly indicated as such on its Preliminary and Final Plats.

(1) Purpose and Intent

Conservation Developments provide a development option that permits flexibility of design in order to promote environmentally sensitive and efficient uses of the land. Conservation Developments will also provide the following:

- a. Preservation in perpetuity of unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands, and wildlife habitats;
- b. Preservation of important historic and archaeological sites;
- c. Clustering of houses and structures on less environmentally sensitive soils which will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development;
- d. Reduction of erosion and sedimentation by minimizing land disturbance and removing vegetation in residential development through a reduced building footprint;
- e. Promotion of interconnected greenways and corridors throughout the community and of contiguous green space with adjacent jurisdictions;
- f. Encourage street designs which reduce traffic speeds and reliance on major arteries;
- g. Promotion of construction of convenient landscaped walking trails and bike paths both within the subdivision and connected to neighboring communities, businesses, and facilities to reduce reliance on automobiles;
- h. Conservation of scenic views and a reduction in perceived density by maximizing the number of houses with direct access to and views of open space; and
- i. Preservation of prime agricultural and forest lands and a reduction in the economic pressures for converting such land to urbanized uses.

(2) Design Criteria

- a. Districts. The Conservation Development Alternative may be used in the Rural Residential or Neighborhood Residential Districts. The Developer will comply with all other provisions of zoning and this Code and with all other applicable laws, except those that are expressly

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addressed by, and inconsistent with, the provisions of this Section. A Conservation Development does not require amending or adjusting the Zoning Map.

- b. Unified Control. The parcel or parcels of land for a Conservation Development will be in unified control, and will be owned or controlled by either a single person, corporation, agency, group of individuals, or like organizations. The Developer will maintain and provide for unified control of the Conservation Development until the project is complete. The entity designated to provide unified control will ensure that all conditions of development are met. Individual properties may be sold after appropriate approvals and recordings have been completed and the proper recordings have been made which ensures the continuance of the Conservation Development as approved. Responsibility for unified control will be assigned to a Homeowners Association, in accordance with Section 8.7 which will provide for the maintenance of any common property and Open Space and for improvements.
- c. ~~Maximum Number of Lots—Lot Size and Density.~~ In order to incentivize Conservation Development, larger areas of contiguous conservation area and encourage the implementation of LID principles a density bonus is allowed. The allowed number of lots is calculated by taking the total ~~net lot gross~~ area (not including ~~streets and ROW's streets, ROW and common areas~~) and multiplying it by the maximum gross density ~~dividing it by the Conservation Alternative Minimum~~ in Table 8.1. Each lot in a Conservation Development shall meet the minimum lot size specified in Table 8.1 and ~~There is no individual lot size minimum using the Conservation Development but the lots~~ shall conform to the base zoning setback requirements.

Table 8.1 Conservation Development Alternative Lot Size and Density Incentive

| Zoning District | Neighborhood Residential | Rural Residential |
|--|--|--|
| Maximum Gross Density Conventional Lot Size Minimum | 1.1 lots per acre-1 Acre | 0.3 lots per acre-5 Acre |
| Minimum Lot Size Conservation Development Alternative Minimum | 0.5-acre .75-Acre (blended average) | 1.75-acre 3.75-Acre (blended average) |

- d. ~~Density and Open Spaces Calculation~~Gross Density:
Gross density shall be calculated by dividing the ~~total gross acreage in the development (including developable and undevelopable land) by the number of proposed lots.~~ number of proposed lots in the development by the gross area (not including streets, ROW and common areas). ~~For example, a hypothetical 100-acre tract in the rural residential area with a net lot area of 80 acres would be able to be developed into 16—5 ac lots with 0 ac of protected open space. With the Conservation Development Alternative, the net lot area of 90 acres, requires less area dedicated to streets and could be built to have 22 total clustered lots of which 27 acres of the 90 acres is protected conservation area. (Minimum of 30 percent of the site as protected conservation areas)~~
- e. Example. The following example compares development by traditional zoning to a

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Conservation Development Alternative for a hypothetical 100-acre tract in the rural residential district.

- Traditional zoning. Assuming 20 percent of the tract is designated for streets, right of way and common areas, the remaining 80 acres is the gross area. Since the rural residential district requires lots to be a minimum of five acres, the development is limited to 16 lots.
- Conservation Development Alternative. Since lots will be clustered, it is assumed that only 10 percent of the tract is designated for streets, right of way and common areas. The remaining 90 acres is the gross area. Multiplying the gross area (90 acres) by the maximum gross density (0.30 lots per acres) results in 27 lots allowed. If 40 percent of the gross area (36 acres) is set aside as Conservation Area, the remaining 54 acres is the buildable area. The average lot size would be two acres (54 acres divided by 27 lots), with no lot smaller than 1.75 acres. The increased number of allowed lots may incentivize a developer to set aside the large Conservation Area.

(3) Standards

The following standards will apply to all Conservation Developments:

- a. All street and utility improvements will be constructed to standards specified by the City. Private street widths may vary with City Manager (or designee) approval from widths required in the subdivision regulations, and interior streets may be either public or private. Streets intended to be dedicated to the City must meet minimum standards set forth in Chapter 9.4, Streets.
- b. All Conservation Developments will provide for continuous and perpetual maintenance of stormwater management facilities, common open space, common recreation facilities, private roads, utilities, parking areas, and other similar development within the boundaries of the development in a form and manner acceptable to the City.
- c. Platting will be required for all projects that involve or contemplate the subdivision of land. Lots in a platted Conservation Developments may be sold to separate owners.
- d. To encourage design flexibility, conservation of natural amenities, and innovations that result in a higher quality residential environment than traditional subdivisions, comprehensive site planning is required of all Conservation Developments.

(4) Application Requirements

- a. Site Analysis Map. In addition to meeting the process requirements in Chapter 3, Applications and Permits, of this Code, the Developer must show the following features on a Conservation Development site analysis map to be submitted concurrent with the submission of Conservation Development Site Plan to include the following:
 - i. Exact property boundaries, topographic contours, delineated wetlands, special flood hazard areas, existing roads, and existing structures based on an on the ground survey or aerial imagery;
 - ii. All streams, rivers, lakes, and other hydrologic features;
 - iii. General vegetation characteristics;
 - iv. General soil types as determined from the latest soil survey by the Natural Resources Conservation Service of the United States Department of Agriculture;
 - v. Planned location of protected Open Space;
 - vi. Total acreage of buildable area, **conservation area and proposed lots** in the Conservation

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- Development;
- vii. Potential connections with existing green space and trails; and
 - viii. Location and total area of proposed impervious surfaces.
- b. Management Plan. A Management Plan, as described in Section 8.7(4), will be prepared and submitted with the Conservation Development Site Plan.
 - c. Legal Instrument of Permanent Protection. A Conservation Easement, as described in Section 8.3 (7), will be placed on the Open Space no later than the recording of the Final Plat. The conservation easement and the Final Plat will be filed simultaneously and will make reference to each other. Each will not be complete without the other.
 - d. Other Requirements. The Developer will adhere to all other zoning and subdivision requirements. A Conservation Development will be approved in accordance with the procedures established in this Code. It will be clearly indicated on the Preliminary and Final Plats that the proposed subdivision is a Conservation Development.

(5) Standards to Determine Open Space and Buildable Area

- a. Gross Area. The total area of the parcel or tract minus streets, ROW and common areas.
- b. Buildable Area. The buildable area is the gross area (excluding streets, ROW and common areas) of the Conservation Development tract minus the protected Conservation areas.
- c. Conservation Areas. ~~The minimum restricted conservation area will comprise all of the types as defined below.~~ The minimum restricted Conservation Area will total not less than 3040 percent of the total buildable area gross area (excluding streets, ROW and/or common areas) of the Conservation Development. The following ~~are~~ should be considered for inclusion in the Conservation Area. ~~s and are required to be included within the protected Conservation Area, unless the Developer demonstrates that this provision would constitute an unusual hardship and be counter to the purposes of this Code:~~
 - i. Riparian Zones. Riparian zones of at least 75 foot width on each side from the centerline of every perennial and intermittent stream shown on the United States Geological Survey (USGS) quadrangle topographic maps.
 - ii. Slopes. Slopes above 25 percent of at least 5000 square feet contiguous area.
 - iii. Wetlands. Wetlands determined to be jurisdictional by the U.S. Army Corps of Engineers (USACE) pursuant to Section 404 of the Clean Water Act, including non-jurisdictional wetlands that meet the definition of a wetland given in the 1987 USCAE *Wetlands Delineation Manual*.
 - iv. Forest. Existing healthy, native forests of at least one-acre contiguous area.
 - v. Floodplains. The 100-year floodplain.
 - vi. Important Sites. Historic sites, archaeological sites, cemeteries, and burial grounds.
 - vii. Natural Features. Other significant natural features such as Heritage Trees (TC 75 inches or larger), karst features, caves, recharge features and scenic viewsheds such as ridge lines, peaks, and rock outcroppings, particularly those that can be seen from public roads.
- viii. Agricultural land. Prime agricultural lands of at least five acres.
- ix. Trails. Existing trails that connect the Conservation Development to neighboring areas.
- x. Endangered Species Habitat. Populations of endangered or threatened species, or habitat for such species.