

## ARTICLE 7

### PERMITS AND PROCEDURES *(Amended June 10, 2025)*

#### 7.1 Permits and Procedures for New and/or Expanded Use(s) and/or Development

- 7.1-1 Permit Approval Required. No person shall undertake any land use and/or development activity subject to this Ordinance without first obtaining approval from the Village. Upon approval by the Village, a permit shall be issued for the approved land use and/or development activity. Certain permits associated with land use and/or development are issued by agencies other than the Village of Marvin, as noted below.

In any case where an application is made to operate more than one (1) use on a property, the *Planning, Zoning & Subdivision Administrator* shall determine either which use or uses shall be the principal use or uses, or if there are multiple principal uses, and the type of Zoning Compliance Permit (zoning permit) that is required for the following categories of use(s) appearing in Table 8.1 located in Article 8 of this Ordinance: ***Listed Use, Special Use Permit, or Use Listed with Additional Standards***. Upon determination of the use(s) and the type of zoning permit(s) required shall indicate such decision to the applicant.

In accordance with G.S. 160D-108(b) “**Permit Choice**”, if a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, G.S. 143-755 applies.

The permits and/or approvals listed below are required, depending upon the type(s) of development proposed:

- (A.) ***Zoning Compliance Permits*** (also known as *Zoning Permits*) are issued by the Village of Marvin for all new or expanded use of property (See Table 8.1, Sections 1-3), building and/or development projects. Types of Zoning Compliance Permits for various types of development required appear in Sections 7.5 through 7.12 of this Article. A *Zoning Compliance Permit* may also be obtained as part of a *Development Agreement* in accordance with Section 7.15 of this Article.
- (B.) ***Building Permits*** – Union County Building Inspections Department issues building permits following issuance of *Zoning permit* by the Village of Marvin.
- (C.) ***Certificate of Occupancy*** – The Union County Building Inspections Department issues upon final building inspections and site plan compliance approval by the Village.
- (D.) ***Environmental Impact and Infrastructure*** – The State of North Carolina and various agencies of the United States require specific permits for the impact of natural resources and/or areas deemed sensitive and/or protected. In addition, the State of North Carolina

requires specific permits for the expansion of public infrastructure including streets, potable water, wastewater, and storm water. Professional engineers licensed to perform services in the State of North Carolina shall be consulted by applicants for assistance in preparation of plans and studies required before impacting natural resources and expanding public infrastructure.

- 7.1-2 Fees. The Village Council shall establish a Schedule of Fees, Charges and Expenses, and a collection procedure, for zoning permits and plan approvals issued by the Village. No approval, permit, certificate, variance, etc. shall be processed and/or issued unless or until such charges have been paid in full.

## **7.2 Periodic Inspections**

The *Planning, Zoning & Subdivision Administrator*, or their designee shall have the right, upon presentation of proper credentials to enter on any premises within the Village's jurisdiction at any reasonable hour for the purposes of inspection, determination of plan compliance, or other enforcement action.

## **7.3 Permit Expiration**

- 7.3-1 Expiration of Zoning Permits and Approvals. Permits and approvals, other than those identified in section 7.3-2 below, shall run with the land and expire as set forth in the process for each permit and/or approval based upon permit and approval type detailed in Sections 7.5 through 7.12 of this Article.
- 7.3-2 Building Permit Expiration. The Union County Building Inspections Department may void a building permit for a project within the Village jurisdiction if the authorized work has not begun within six months after issuance of the permit, or work was commenced but was discontinued for a period of 12 months per G.S. 160D-1111.

## **7.4 Certificates Issued by Union County**

The Village of Marvin in conjunction with the Union County Building Inspections Department issues certificates of occupancy, temporary certificates of occupancy, and certificates of floor elevation/flood proofing upon completion or partial completion of a building project.

## **7.5 Zoning Compliance Permits and Expedited Procedure for Small Projects**

7.5-1 Zoning Compliance Permit. A *Zoning Compliance Permit (zoning permit)* is required for the construction or development of any new use within the planning and regulation jurisdiction of the Village of Marvin. In addition to new uses, a *zoning permit* shall also be required for expansions of existing uses, as well as for changes of use. The types of zoning compliance Permits below apply based upon the characteristics of the development proposed:

(A.) ***Special Events/Temporary Structures*** – See Section 7.6 of this Article.

(B.) ***Site Development and Construction Plan Approval(s)*** for development not eligible for Expedited Procedure for Small Projects appearing is Sub-section 7.5-2 of this Article. See Sub-section 7.7 of this Article for required information and procedures.

(C.) ***Special Use Approvals*** – See Section 7.8 of this Article for required information and procedures.

(D.) ***Uses Listed with Additional Standards*** – See Section 7.9 of this Article for required information and procedures.

(E.) ***Sign Permits*** – See Section 7.10 of this Article for required information and procedures.

(F.) ***Subdivision Plat Approval*** – See either Sub-section 7.11-1 of this Article for required information and procedures for Major Subdivisions or Sub-section 7.11-2 (page 22) of this Article for required information and procedures for Minor Subdivisions. Additional details for the subdivision of land appear in Article 16 of this Ordinance.

(G.) ***Floodplain Development and Certification Permit*** – See Article 18 of this Ordinance, as referenced by Section 7.12 of this Article.

7.5-2 Expedited procedure for Small Projects. An expedited procedure for the following types of projects is set forth below shall be followed to obtain a *Zoning Compliance Permit* for the construction of one single-family or one two-family (duplex) residential structure and expansions of uses and changes of use that do not require approvals described in Section 7.7 of this Ordinance.

(A.) Application for Expedited Procedure for Small Projects.

(1.) Filing of application. An application for a *zoning permit* may be filed by the landowner, a lessee or person holding an option or contract to purchase or lease land, or by an authorized agent of the landowner. Where an agent files the application, the agent shall provide documentation that the owner of the property has authorized the filing of the application. The application for a *zoning permit* shall be filed with the *Planning, Zoning & Subdivision Administrator* on a form provided by the *Planning, Zoning & Subdivision Administrator*.

(2.) Information required. Each application for a *zoning permit* shall contain the information required on the application form. Other information necessary to show that the use or

structure complies with the standards set forth in this Ordinance shall also be provided to confirm compliance. Such additional information may be a sketch of the property and locations of proposed improvements.

(B.) Staff review. The *Planning, Zoning & Subdivision Administrator* shall review the application and determine whether it is complete within ten (10) working days of its submittal, including the fulfillment of applicable fees duly paid. If the application is found to be incomplete, the *Planning, Zoning & Subdivision Administrator* shall notify the applicant of any deficiencies. No further steps shall be taken to process the application until the applicant corrects the deficiencies. The review of complete applications may vary depending upon the applicability of technical plans and specifications as outlined in this Article. In any event the *Planning, Zoning & Subdivision Administrator* shall issue a *zoning permit* only upon finding that the proposed development, use and/or structure satisfies the requirements set forth in this Ordinance.

(C.) Permit validity. Upon the approval of a *zoning permit* authorized by G.S. 160D-403 the applicant shall have one year to obtain the required building permit(s) if any, unless a greater timeframe is authorized by G.S. 160D-108. Failure to obtain requisite building permit(s) within this time shall render the *zoning permit* void. Upon issuance of a building permit(s), a *zoning permit* for improvements shall remain valid as long as a valid building permit exists for the project. A *zoning permit* issued for the use of a premises in accordance with then current adopted ordinance(s) shall run with the land and remain valid for the duration of said use, or temporary period as stipulated in said permit. Any unapproved change, as determined by the *Planning, Zoning & Subdivision Administrator* in the approved plans shall render the *zoning permit* invalid and in violation of this Ordinance. Violations of this Ordinance are subject to the remedies and penalties pursuant to Article 23 of this Ordinance.

## **7.6 Special Events/Temporary Structures Zoning Permit**

7.6-1 Purpose. To insure that proposed special events and temporary structures comply with the requirements of Article 15 and any other applicable standards and specifications of this Ordinance, no use that is classified as a special event requiring a permit, and/or no structure that is classified as a temporary structure and permitted as such in the zoning district in which it is located shall be placed or established on the property without first receiving a special event/temporary structure *zoning permit* from the *Planning, Zoning & Subdivision Administrator*.

### **7.6-2 Plan submittal.**

(A.) Filing of application. An application for a special event/temporary structure *zoning permit* may be filed by the landowner, a lessee or person holding an option or contract to purchase or lease land, or by an authorized agent of the landowner. Where an agent, files the application, the agent shall provide the *Planning, Zoning & Subdivision Administrator* with documentation that the owner of the property has authorized the filing of the application. The application for a special event/temporary structure *zoning permit* shall be filed with the

*Planning, Zoning & Subdivision Administrator* on a form provided by the *Planning, Zoning & Subdivision Administrator*.

(B.) Information required. Each application for special event/temporary structure *zoning permit* shall contain the information required on the application form. The application shall be accompanied by a *Sketch Plan* showing the boundaries of the property, the use of adjacent properties, the location of the special event or structure on the property, access and parking provisions, restroom facilities, and other information sufficient to show that the special event or structure complies with the standards set forth in Article 15 and any other applicable standards and specifications of this Ordinance. Persons seeking issuance of a special event/temporary structure *zoning permit* for an event shall file an application with a minimum of five (5) days prior to the proposed event date, unless this time frame is reduced in writing by the *Planning, Zoning & Subdivision Administrator*.

7.6-3 Staff review. The *Planning, Zoning & Subdivision Administrator* shall review the application and determine whether it provides the information required. The *Planning, Zoning & Subdivision Administrator* shall issue a special event/temporary structure *zoning permit* only upon finding that the proposed special event or temporary structure satisfies the requirements set forth in Article 15 and any other applicable standards and specifications of this Ordinance.

7.6-4 Permit validity. The special event/temporary structure *zoning permit* shall run with the land and be valid only for the date(s) stated on the permit.

7.6-5 Public emergencies. In the event of a natural disaster, catastrophic event or public emergency the *Planning, Zoning & Subdivision Administrator* or their designee may waive any special event/temporary structure permit procedures and authorize the placement of temporary structures and other facilities that are deemed necessary or desirable in conjunction with the management of the emergency in accordance with Section 1.15.

## **7.7 Site Development and Construction Plan Approval(s)**

### **7.7-1 Site Development and Construction Plans.**

(A.) Purpose. The site development and construction plan review process is required for development projects located within the Village of Marvin in order to prepare for expected impacts upon public services and facilities. This review process is established to ensure that adequate services and facilities can be provided for these developments and to assure that they do not negatively impact the area in which they are proposed to be located or the Village as a whole. Proposed developments involving new construction, additions, renovations, and changes of use which fall into one or more of the following categories are subject to the Site Development Plan review process:

(1.) New construction and changes of use.

(a.) Non-residential buildings, structures, or developments with a gross floor area of more than 100 square feet;

- (b.) Any residential development containing more than two (2) individual units; and/or
  - (c.) Any development where public streets are extended.
- (2.) Additions to existing buildings increasing gross floor area by more than 100 square feet of *Floor Area (Gross)*.
- (3.) Properties located within 1,500 feet of each other, under the same ownership and/or developed by the same developer over a period of three years or less shall be considered to be one development and reviewed as such.
- (B.) Exemptions. Projects within the Village of Marvin involving new construction, additions, renovations, and changes of use which do not meet the minimum size requirements of the *Site Development Plan* review processes as set forth in subsection 7.7-1(A) above shall be reviewed as *Zoning Permit* in accordance with the provisions of Section 7.5 of this Article.
- (C.) Pre-application procedure. All applicants for Site Development Plan review are required to schedule a predevelopment conference with the *Planning, Zoning & Subdivision Administrator* prior to the preparation of development plans. This conference allows the applicant and *Planning, Zoning & Subdivision Administrator* an opportunity to discuss the review process, the requirements for completing the review schedule, contact persons for services and permits, and information regarding *Site Development Plans* and development requirements.

(D.) Site Development Plan submittal.

- (1.) Application required. An application shall be required for all Site Development Plan review requests. This application shall contain pertinent information regarding the proposed project and shall be accompanied by a *Site Development Plan*. The *Site Development Plan* shall contain the following:
  - (a.) Property boundaries with dimensions
  - (b.) PIN for property
  - (c.) Location of adjacent streets, right of ways, and utility easements
  - (d.) Dimensioned footprint and setbacks of the existing and proposed structures with gross floor area indicated
  - (e.) Dimensions of existing and proposed impervious surfaces
  - (f.) Location and number of parking spaces
  - (g.) Location and size of buffer and landscape areas
  - (h.) Location of existing and proposed driveways and/or streets
  - (i.) Location of all flood zones
  - (j.) Location of adjoining properties and both the existing zoning designation and use of these properties
  - (k.) Names and addresses of adjoining property owners
  - (l.) Number of stories and overall height of all existing and proposed structures
  - (m.) Location of proposed stormwater facilities
  - (n.) Location of existing and proposed dumpster and recycling containers
  - (o.) Generalized depiction or description of natural features on and immediately adjoining the site, including streams and other water bodies, steep slopes, areas covered by tree canopy, etc., and
  - (p.) Other information determined by the *Planning, Zoning & Subdivision Administrator* as necessary to evaluate the request.
- (2.) Preparation by professional. *Site Development Plans* for developments requiring Site Development Plan review shall be prepared by a registered architect, engineer, landscape architect, or land surveyor licensed in the State of North Carolina for the work in which they are trained and licensed to perform.

(E.) Staff review.

- (1.) Planning Department staff review.

Plans for development requiring Site Development Plan review shall be reviewed by the *Planning, Zoning & Subdivision Administrator* for compliance with the requirements of this Article and standards and specifications of this Ordinance and the Technical Standards & Specifications Manual.

- (2.) Submittal of plans to *Planning, Zoning & Subdivision Administrator*.

The *Planning, Zoning & Subdivision Administrator* reviews the *Site Development Plans* for compliance with the applicable requirements of this Ordinance and other applicable Ordinances and laws, to which their respective jurisdiction applies. This review shall be

made by the *Planning, Zoning & Subdivision Administrator* and by any other agencies or officials as requested by the *Planning, Zoning & Subdivision Administrator*.

(F.) Permit validity. Approval of *Site Development Plans* and *zoning permits* authorized by G.S. 160D-403 for developments requiring Site Development Plan review shall run with the land and constitute approval of a site-specific vesting plan in accordance with G.S. 160D-108(d) and be valid for two (2) years from the date of approval unless a greater timeframe is authorized by G.S. 160D-108. Failure to submit construction plans, initiate construction, or otherwise begin the permitted use, within this time shall render the Site Development Plan approval void. The *Planning, Zoning & Subdivision Administrator* may grant a single extension of this time period of up to three (3) years upon submittal by the applicant of sufficient justification for the extension. Multi-phased development containing 25 acres or more remains vested for a period of seven (7) years from the time a site plan approval is granted as authorized in G.S. 160D-108(f).

(G.) Site Construction Plans.

(1.) Site Construction Plan required. A complete and comprehensive set of Site Construction Plans shall be required for all Site Development Plan review requests. This submittal shall contain pertinent information regarding the proposed project and shall be accompanied by the approved *Site Development Plan* per 7.7-1(E.) herein above illustrating any and all deviations from the approved Site Development Plan. The *Site Construction Plan* shall contain the following:

- (a.) Property boundaries with dimensions
- (b.) Location of adjacent streets/roads including existing right-of-way and/or easement(s)
- (c.) Location and design of proposed streets including cross-sections in accordance with the Marvin Technical Standards & Specifications Manual, centerline profile(s), and the proposed right-of-way.
- (d.) Location of existing and proposed utilities, including easements associated with both
- (e.) A grading plan showing existing and proposed contours demonstrating both positive drainage characteristics and smooth grade transitions to avoid abrupt “v” ditches, swales and other disruptions to the landscape, particularly between buildings where open space enhancements for use by persons actively utilizing the landscape and/or yard area. The use of crawl-space construction techniques in detached residential structures and professional landscape design is required to meet this characteristic of site development.
- (f.) Location of existing and proposed stormwater detention, retention, collection, and conveyance facilities
- (g.) Dimensions of existing and proposed impervious surfaces
- (h.) Location of existing structures and either proposed structures or proposed building envelopes
- (i.) Location and number of existing and proposed parking spaces, including loading spaces, maneuvering areas, and fire lane(s)



- (j.) Location and size of buffer and landscape areas
  - (k.) Location of existing and proposed driveways and/or streets
  - (l.) Location of all flood zones
  - (m.) Location of adjoining properties and both the current zoning designation and use of these properties
  - (n.) Names and addresses of adjoining property owners
  - (o.) Number of stories and overall height of all existing and proposed structures
  - (p.) Location of existing and proposed dumpster and recycling container area(s)
  - (q.) Generalized depiction or description of natural features on and immediately adjoining the site, including streams and other water bodies, steep slopes, areas covered by tree canopy, etc., and
  - (r.) Other information determined by the *Planning, Zoning & Subdivision Administrator* as necessary to evaluate the request.
- (2.) Preparation by professional. *Construction Plans* for developments requiring Site Development Plan review shall be prepared by a registered architect, engineer, landscape architect, or land surveyor licensed in the State of North Carolina for the work in which the professional is trained and licensed to perform.

#### 7.7-2 RESERVED

### 7.8 **Special Use Approvals**

- 7.8-1 Purpose. Special uses are established to provide for the location of those uses which are generally compatible with other land uses permitted in a zoning district but which, because of their unique characteristics or potential impacts on the surrounding *Neighborhood* and the Village of Marvin as a whole, require individual consideration of their location, design, configuration, and/or operation at the particular location proposed. Such individual consideration may also identify cause(s) for the imposition of individualized conditions in order to ensure that the use is appropriate at a particular location and to ensure protection of the public health, safety, and welfare. Any use identified in Section 10.2 of this Ordinance as a special use in a zoning district shall not be permitted without the approval of the *Board of Adjustment* in accordance with the requirements and procedures set forth in this section 7.8.
- 7.8-2 Pre-application conference procedure. Every applicant for a special use *zoning permit* is required to meet with the *Planning, Zoning & Subdivision Administrator* in a pre-application conference prior to the submittal of a request for approval of a special use. The purposes of this conference are to provide additional information regarding the review process and assistance in the preparation of the application
- 7.8-3 Plan submittal.
- (A.) Filing of application. An application for a special use *zoning permit* may be filed by the landowner, a lessee or person holding an option or contract to purchase or lease land, or by an authorized agent of the landowner. Where an agent files the application, the agent shall

provide documentation that the owner of the property has authorized the filing of the application. The application for a special use *zoning permit* shall be filed with the *Planning, Zoning & Subdivision Administrator* on a form provided by the *Planning, Zoning & Subdivision Administrator*.

- (B.) Information required. Each application for a special use *zoning permit* shall contain all information identified as required by the *Planning, Zoning & Subdivision Administrator*. The application shall be accompanied by an electronic file copy plus at least two paper copies of a *Site Development Plan* containing all information required by Section 7.7 of this Ordinance for filing(s) on the subject property.

#### 7.8-4 Staff review.

- (A.) Planning, Zoning & Subdivision Administrator review. Following submittal of the application and *Site Development Plans* for the special use, they shall be reviewed by the *Planning, Zoning & Subdivision Administrator* for compliance with the requirements of section 7.8 of this Ordinance.

- (B.) Submittal of plans to Planning, Zoning & Subdivision Administrator.

This review shall be made by the *Planning, Zoning & Subdivision Administrator* and by any other agencies or officials as requested by the *Planning, Zoning & Subdivision Administrator*. The *Planning, Zoning & Subdivision Administrator* shall review the *Site Development Plans* for compliance with the applicable requirements of this Ordinance and other applicable Ordinances and laws, to which their respective departmental role applies.

#### 7.8-5 Formal review.

- (A.) Evidentiary hearing. Upon receipt of a notice from the *Planning, Zoning & Subdivision Administrator* of the applicant requesting an evidentiary hearing on the application and *Site Development Plan* for a special use *zoning permit*, an evidentiary hearing shall be scheduled. An evidentiary hearing before the *Marvin Board of Adjustment* shall be held for all special use *zoning permit* applications.

- (B.) Action by the Marvin Board of Adjustment.

- (1.) The *Marvin Board of Adjustment* shall consider the request within 35 days of receiving information regarding the special use *zoning permit* application from the *Planning, Zoning & Subdivision Administrator*.
- (2.) The *Marvin Board of Adjustment*, after conducting the quasi-judicial evidentiary hearing, may: (1) deny approval; (2) continue the application pending submittal of additional information; or (3) approve the proposed special use *zoning permit*.
- (3.) The decision on the special use *zoning permit* application shall be by a simple majority vote of those members of the *Marvin Board of Adjustment* present at the meeting at which the action is taken.
- (4.) The minutes of the *Marvin Board of Adjustment* shall state if the proposed special use meets or does not meet each of the conditions set forth in section 7.8-5.(C), the standards

set forth in Article 10 of this Ordinance for the proposed special use, and all other requirements set forth by this Ordinance for the proposed special use.

(C.) Findings and Conditions. In granting the *zoning permit*, the *Board of Adjustment* shall find there to be competent, material, and substantial evidence in the record to support these conclusions and the *Board of Adjustment* must find that all the below listed facts exist or the application shall be denied.

- (1.) That the use or development is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
- (2.) That the use or development complies with all required regulations and standards of this Ordinance and with all other applicable regulations;
- (3.) That the use or development is located, designed, and proposed to be operated so as not to substantially injure the value of adjoining or abutting property, or that the use or development is a public necessity; and
- (4.) That the use or development will be in harmony with the area in which it is to be located and conforms to the general plans for the land use and development of Village of Marvin and its environs.

(D.) Additional Conditions. In granting the special use *zoning permit*, the *Board of Adjustment* may designate only those conditions, in addition and in connection therewith, as will, in its opinion, assure that the use in its proposed location will be harmonious with the area in which it is proposed to be located, with the spirit of this Ordinance and clearly in keeping with the public welfare. All such additional conditions shall be entered into the minutes of the meeting, at which the special use *zoning permit* is granted, on the special use *zoning permit* itself, and on the approved plans. All specific conditions shall run with the land and shall be binding on the original applicants, their heirs, successors, and assigns. The special use *zoning permit*, as approved, shall be recorded by the *Planning, Zoning & Subdivision Administrator* with the Register of Deeds for the county in which the subject property is located the same as a deed restriction. The *zoning permit* recipient shall be responsible for paying the recording fee. No *building permit* shall be issued for the subject property until the recording is made.

7.8-6 Transfer of approval. A special use approval is not transferable from one property to another but is transferred to a subsequent owner of the property to which applied.

7.8-7 Resubmission of denied applications. No application for approval of a special use shall be filed with, or accepted by, the *Planning, Zoning & Subdivision Administrator* that is identical or substantially similar to an application that has been denied by the *Marvin Board of Adjustment* within one year of the final action by the *Board of Adjustment* denying the request. This waiting period may be waived in an individual case, for good cause shown, by the affirmative vote of a majority of the members of *Board of Adjustment*.

- 7.8-8 Notice of hearing. Notice of evidentiary hearings required under this section for special use approvals shall be provided in accordance with the requirements established by G.S. 160D-406 for evidentiary hearing notification.
- 7.8-9 Project phasing. If a project approved as a special use is to be developed in phases, a master plan for the entire development site must be approved by the *Marvin Board of Adjustment* at the same time and in the same manner the special use *zoning permit* application is considered.
- (A.) Final plans for phases of the special use may be submitted in stages and shall be approved by the *Planning, Zoning & Subdivision Administrator* provided that the following requirements are met:
- (1.) All stages shall be shown with precise boundaries on the master plan and shall be numbered in the expected order of development.
  - (2.) Each phase must be able to exist independently of subsequent phases by meeting all applicable laws and regulations as if the phase were a separate project.
  - (3.) All the data required for the project as a whole shall be given for each stage shown on the plan.
  - (4.) A proportionate share of the open space, common facilities, amenities, play areas, etc. shall be included in each stage of the development, except that centralized common facilities shall be guaranteed by bond or other irrevocable financial instrument valid for the duration of the project implementation period.
  - (5.) The phasing shall be consistent with the traffic circulation, drainage, and utilities plan for the entire master plan for the special use.
  - (6.) Each phase of the special use must comply with any and all conditions attached to the approval of the special use *zoning permit* by the *Marvin Board of Adjustment*.
- 7.8-10 Variances. In issuing special use *zoning permits*, the *Marvin Board of Adjustment* may prescribe dimensional requirements (height, setback, etc.) that are different from the requirements of the corresponding general zoning classification, and may prescribe development and design standards that are different from those set out in Article 9; provided, that any request for a modification to a dimensional requirement or development and design standard that is less restrictive than would be applicable for the underlying general zoning classification must be specifically described in any notices required for the evidentiary hearing on the special use *zoning permit* application, and must be set out separately in any Ordinance issuing said special use *zoning permit*, together with an explanation of the reason for the modification. Except as modified pursuant to this paragraph, all standards and requirements applicable to the underlying general zoning district must be met. Variances, per Article 6 of this Ordinance, to the standards established by any special use permit shall not be allowed. Minor modifications per Sub-section 7.8-14 of this Article are eligible.
- 7.8-11 Appeals. An appeal from the decision of the *Marvin Board of Adjustment* regarding a special use application and *Site Development Plan* may be made by an aggrieved party and

shall be made to the Superior Court of the county in which the subject property is located in the nature of certiorari. Any such petition to the Superior Court shall be filed with the court no later than 30 days after a written copy of the decision of the *Board of Adjustment* is received by the applicant.

- 7.8-12 Permit validity. Approval(s) of a special use *zoning permit* application and *Site Development Plan* shall run with the land and constitute approval of a site-specific vesting plan in accordance with G.S. 160D-108(d) and be valid for a minimum of not less than two (2) years from the date of approval by the *Marvin Board of Adjustment*. Failure to initiate construction, or otherwise begin the permitted use, within this time shall render the special use approval null and void. Multi-phased development of a special use project containing 25 acres or more remains vested for a period of seven (7) years from the time a site plan approval is granted as authorized in G.S. 160D-108(f).
- 7.8-13 Failure to Comply with Plans or Conditions. In the event of failure to comply with the plans approved by the *Board of Adjustment* or with any other conditions imposed upon the special use *zoning permit*, the *zoning permit* shall thereupon immediately become void and of no effect. No building permits for further construction or certificates of occupancy under this special use *zoning permit* shall be issued. If a failure to comply with conditions in a special use *zoning permit* occurs after occupancy, the owner, lessee, or other responsible person shall be notified in writing of the violation. No earlier than five days after the receipt of the written notice, the body issuing the special use *zoning permit* may issue a finding of fact that a violation of the requirements of this Ordinance exists. If such finding of fact is made, it shall be unlawful for any person, firm or corporation to continue the special use until the responsible party makes the necessary corrections and the *Board of Adjustment* conducts an evidentiary hearing and finds that the violation no longer exists.
- 7.8-14 Minor modifications. Minor modifications to the approved special use permit may be approved by the *Planning, Zoning & Subdivision Administrator* per authorization under G.S. 160D-705(c). The minor modifications authorized herein are intended to provide relief where conditions established by the special use permit create a hardship based upon a unique physical attribute of the property itself or some other factor unique to the property which was not known at the time of special use permit approval and which has subsequently rendered the property difficult or impossible to use due to the condition(s) imposed by the special use permit. The special use permit holder shall bear the burden of proof to secure the modification(s). Such modifications shall be limited to the following:
1. A deviation of up to ten percent or 24 inches, whichever is greater, from the approved setback, provided that the conditions for approving a deviation from the required setback established by Article 14 (Flexible Development Standards) of this Ordinance are met.
  2. A reduction of up to 25 percent in the number of parking spaces required for the use provided that the proposed development is located within 500 feet of either the Main Street District (MS) or the Mixed Use (MU-1 and MU-2) and on-street parking is available.

3. Any other minor modification in accordance with the limitations and procedures prescribed in this Ordinance, unless restricted by G.S. 160D-705(c), or the special use permit adopted pursuant to this section specifies otherwise.

Any other modifications must be approved by the *Board of Adjustment* as an amendment to the special use permit and may be referred to the Planning Board or *Planning, Zoning & Subdivision Administrator* as appropriate. The *Planning, Zoning & Subdivision Administrator* shall in every case have the discretion to decline to exercise the power to approve or deny modifications as provided for herein, and may require the applicant to seek an amendment to the Special Use Permit.

- 7.8-15 Special Use Permit recorded. Special Use Permits shall be recorded by the holder of the permit with the Union County Register of Deeds within 60 days of approval. Modifications to Special Use Permits shall be recorded in the same manner in which the original permit was recorded.

## **7.9 Uses Listed with Additional Standards**

- 7.9-1 Purpose. Uses listed with additional standards are uses permitted by right, provided that the additional standards set forth in Section 10.1 of this Ordinance are met. The additional standards are intended to ensure that the uses fit the intent of the zoning districts within which they are permitted, and that the uses are compatible with other development permitted within the zoning districts. Review and approval of these uses are the authority of the *Planning, Zoning & Subdivision Administrator*, who has no discretion to modify the additional standards.

- 7.9-2 Plan submittal.

(A.) Filing of application. An application for a *zoning permit* for a use with additional standards may be filed by landowner, a lessee or person holding an option or contract to purchase or lease land, or by an authorized agent of the landowner. Where an agent files the application, the agent shall provide documentation that the owner of the property has authorized the filing of the application. The application for a *zoning permit* for a use with additional standards shall be filed with the *Planning, Zoning & Subdivision Administrator* on a form provided by the *Planning, Zoning & Subdivision Administrator*.

(B.) Information required. Each application for a *zoning permit* for a use with additional standards shall contain all information required by the *Planning, Zoning & Subdivision Administrator*. The application shall be accompanied by a *Site Development Plan* meeting the requirements for *Site Development Plans* as established by section 7.7 of this Ordinance.

- 7.9-3 Staff review. Notwithstanding the procedures applicable in section 7.7 of this Ordinance, the *Planning, Zoning & Subdivision Administrator* shall review the proposed use and determine if the additional standards for that use have been met. If the additional standards have been met, the use shall be approved provided all other applicable standards and procedures have been met. Failure to meet all the additional standards shall result in denial

of a *zoning permit* for the proposed use. The *Planning, Zoning & Subdivision Administrator* shall approve or deny the proposed use with additional standards or request more information, if needed, within ten (10) working days of submittal. If the application is found to be incomplete, the *Planning, Zoning & Subdivision Administrator* shall notify the applicant of any deficiencies. No further steps will be taken to process the application until the applicant corrects the deficiencies. The *Planning, Zoning & Subdivision Administrator* shall approve the use only upon finding that the proposed use satisfies all applicable requirements set forth in this Ordinance.

- 7.9-4 Permit validity. Upon the approval of a *zoning permit* for a use with additional standards authorized by G.S. 160D-403 the applicant shall have one year to obtain the required building permit(s) if any, unless a greater timeframe is authorized by G.S. 160D-108. Failure to obtain requisite building permit(s) within this time shall render the *zoning permit* void. Upon issuance of a building permit(s), a *zoning permit* for improvements shall run with the land and remain valid as long as a valid building permit exists for the project. A *zoning permit* issued for the use of a premises in accordance with then current adopted ordinance(s) shall remain valid for the duration of said use, or temporary period as stipulated in said permit. Any unapproved change, as determined by the *Planning, Zoning & Subdivision Administrator* in the approved plans shall render the *zoning permit* invalid and in violation of this Ordinance. Approval of *Site Development Plans* for a use with additional standards authorized by G.S. 160D-403 for developments requiring Site Development Plan review required by Section 7.7 of this Article shall constitute approval of a site-specific vesting plan in accordance with G.S. 160D-108(d) and be valid for two (2) years from the date of approval unless a greater timeframe is authorized by G.S. 160D-108. Failure to submit construction plans, initiate construction, or otherwise begin the permitted use, within this time shall render the Site Development Plan approval void. The *Planning, Zoning & Subdivision Administrator* may grant a single extension of this time period of up to three (3) years upon submittal by the applicant of sufficient justification for the extension. Violations of this Ordinance are subject to the remedies and penalties pursuant to Article 23 of this Ordinance. Multi-phased development of a special use project containing 25 acres or more remains vested for a period of seven (7) years from the time a site plan approval is granted as authorized in G.S. 160D-108(f).

## **7.10 Sign permits**

- 7.10-1 Purpose. In order to regulate the provision of sign standards and sign restrictions within the planning and regulation jurisdiction of the Village of Marvin, it shall be unlawful to erect or maintain any sign or sign structure without first obtaining a sign *zoning permit*.
- 7.10-2 Application submittal.
- (A.) Filing of application.
- (1.) An application for a sign *zoning permit* may be filed by landowner, a lessee or person holding an option or contract to purchase or lease land, or by an authorized agent of the landowner. The application for a sign *zoning permit* shall be filed with the Village of

Marvin *Planning Department* on a form provided by the *Planning, Zoning & Subdivision Administrator*.

(2.) Sign contractor's license. No person shall engage in the business of erecting or maintaining signs in the Village of Marvin unless said person has been issued a sign contractor's license which has not expired at the time said work is done. This requirement shall exclude those persons who construct and erect a principal use identification sign when that sign is used at that person's place of business, provided all construction and installation is properly permitted and inspected for compliance with the applicable building codes of the Village of Marvin and other sections of this Ordinance.

(B.) Information required. Each application for a sign *zoning permit* shall be accompanied by complete information as required by the *Planning, Zoning & Subdivision Administrator* and shall include, without being limited to, a *Site Development Plan* and elevation drawings of the proposed sign, a drawing of the building facade indicating the proposed location of the sign (if the sign is to be attached to a building), height, dimensions and square footage of the proposed sign and any other data as the *Planning, Zoning & Subdivision Administrator* may determine to be necessary for review of the application.

7.10-3 Staff review. Provided the application for a sign *zoning permit* is complete, the *Planning, Zoning & Subdivision Administrator* shall review the application and determine whether it is complete within ten (10) working days of its submittal. If the application is incomplete, the *Planning, Zoning & Subdivision Administrator* shall notify the applicant of any deficiencies. No further steps shall be taken to process the application until the applicant corrects the deficiencies. The *Planning, Zoning & Subdivision Administrator* shall issue a sign *zoning permit* only upon finding that the proposed sign or sign structure satisfies the requirements of Article 17.

7.10-4 Permit validity. Upon issuance of a sign *zoning permit*, the applicant will have 12 months to commence work on the approved signage, after which the *zoning permit* shall automatically become null and void. Signs included in a *Site Development Plan* application and approval are subject to Permit Validity of Section 7.7 of this Article.



## 7.11 Subdivision Plat Approval

### 7.11-1 Major Subdivisions.

(A.) Purpose. The *Major Subdivision* review process is required for those divisions of land meeting the definition of “*Subdivision, Major*” appearing in Article 3 of this Ordinance. Review and approval of the *Preliminary Plat* by the *Planning, Zoning & Subdivision Administrator* following input by the *Planning Board* is required under the *Major Subdivision* review process, with review and approval of the *Final Plat* made by the *Planning, Zoning & Subdivision Administrator*. *Major Subdivisions* proposing the development of new street infrastructure are required to enter into a *Development Agreement* in accordance with Section 7.15 of this Article.

### (B.) Pre-application procedure.

- (1.) Conference. It is required that every applicant for a *Major Subdivision* meet with the *Planning, Zoning & Subdivision Administrator* in a conference prior to the submittal of a *Subdivision Plat*. The purpose of this conference is to provide clarification and assistance in the preparation and submission of *Plats* for approval.
- (2.) Sketch Plan. A *Sketch Plan* shall be submitted to the *Planning, Zoning & Subdivision Administrator* prior to or at the pre-application conference. Upon submittal of the *Sketch Plan*, the *Planning, Zoning & Subdivision Administrator* shall conduct an initial review to determine whether the proposed *Subdivision* is a *Major Subdivision*.

### (C.) Application and Preliminary Plat/Site Development Plan submittal.

- (1.) Preliminary Plat(s) required. A *Preliminary Plat and Site Development Plan* for a proposed *Major Subdivision* shall be prepared by a registered architect, engineer, landscape architect, and/or land surveyor licensed in the State of North Carolina for the work in which the professional is trained and licensed to perform; and shall be prepared in accordance with the standards set forth by the *Planning Department* and applicable state standards.
- (2.) Filing of application. A complete application containing all information as required by the Village of Marvin shall be submitted, along with applicable fees, to the *Planning, Zoning & Subdivision Administrator*.

### (D.) Preliminary Plat/Site Development Plan for Major Subdivisions submittal requirements.

- (1.) Application required. An application shall be required for all *Preliminary Plat/Site Development Plan* for *Major Subdivisions* review requests. This application shall contain pertinent information regarding the proposed project and shall be accompanied by a *Preliminary Plat/Site Development Plan* for *Major Subdivisions*. The *Preliminary Plat/Site Development Plan* for *Major Subdivisions* shall contain the following:
  - (a.) Property boundaries with dimensions
  - (b.) PIN for property
  - (c.) Location of adjacent streets, right of ways, and utility easements

- (d.) Dimensioned footprint and setbacks of the existing structures
- (e.) Location and size of buffer and landscape areas
- (f.) Location of existing and proposed streets
- (g.) Location of all flood zones
- (h.) Location of adjoining properties and both the existing zoning designation and use of these properties
- (i.) Names and addresses of adjoining property owners
- (j.) Location of proposed stormwater facilities
- (k.) Generalized depiction or description of natural features on and immediately adjoining the site, including streams and other water bodies, steep slopes, areas covered by tree canopy, etc., and
- (l.) Other information determined by the *Planning, Zoning & Subdivision Administrator* as necessary to evaluate the request.

(E.) Staff review and Planning Board input.

(1.) Planning Department staff review.

Plans for *Preliminary Plat/Site Development Plan for Major Subdivisions* review shall be reviewed by the *Planning, Zoning & Subdivision Administrator* for compliance with the requirements of this Article.

(2.) Submittal of plans to Planning, Zoning & Subdivision Administrator.

This review shall be made by the *Planning, Zoning & Subdivision Administrator* and by any other agencies or officials set forth in G.S. 160D-803(b) as requested by the *Planning, Zoning & Subdivision Administrator*. The *Planning, Zoning & Subdivision Administrator* shall review the *Preliminary Plat/Site Development Plan for Major Subdivisions* for compliance with the applicable requirements of this Ordinance and other applicable Ordinances and laws, to which their respective departmental role applies.

(3.) Submittal of plans to Planning Board.

This review shall be made by the *Planning Board* as scheduled by the *Planning, Zoning & Subdivision Administrator*. The *Planning Board* shall review the *Preliminary Plat/Site Development Plan for Major Subdivisions* only in accordance with the applicable requirements of this Ordinance.

(F.) Permit validity. Approval of the *Preliminary Plat/Site Development Plan for Major Subdivisions* authorized by G.S. 160D-403 for developments requiring Site Development Plan review shall run with the land and constitute approval of a site-specific vesting plan in accordance with G.S. 160D-108(d) and be valid for two (2) years from the date of approval unless a greater timeframe is authorized by G.S. 160D-108. The *Planning, Zoning & Subdivision Administrator* may grant a single extension of this time period of up to three (3) years upon submittal by the applicant of sufficient justification for the extension. The *Final Plat* for the *Major Subdivision* shall be presented for approval prior to the end of the two-year period. Failure to submit construction plans, initiate construction, or otherwise begin the

permitted use, within this time shall render the *Preliminary Plat/Site Development Plan* approval void. Multi-phased development of subdivisions containing 25 acres or more remains vested for a period of seven (7) years from the time a site plan approval is granted as authorized in G.S. 160D-108(f).

(G.) Site Construction Plans.

- (1.) Site Construction Plan required. A complete and comprehensive set of Site Construction Plans shall be required for all *Preliminary Plat/Site Development Plan* for *Major Subdivisions* review requests. This submittal shall contain pertinent information regarding the proposed project listed below and shall be accompanied by the approved *Preliminary Plat/Site Development Plan* for *Major Subdivisions* per 7.11-1(E.) herein above illustrating any and all deviations from the approved *Preliminary Plat/Site Development Plan* for *Major Subdivisions*. The *Site Construction Plans* shall contain the following:
- (a.) Property boundaries with dimensions
  - (b.) Location of adjacent streets/roads including existing right-of-way and/or easement(s)
  - (c.) Location and design of proposed streets including cross-sections in accordance with the Marvin Technical Standards & Specifications Manual, centerline profile(s), and the proposed right-of-way
  - (d.) Location of existing and proposed utilities, including easements associated with both
  - (e.) A grading plan showing existing and proposed contours demonstrating both positive drainage characteristics and smooth grade transitions to avoid abrupt “v” ditches, swales and other disruptions to the landscape, particularly between dwellings. The use of crawl-space construction techniques in detached residential structures and professional landscape design is required to meet this characteristic of site development.
  - (f.) Location of existing and proposed stormwater detention, retention, collection, and conveyance facilities
  - (g.) Dimensions of existing and proposed impervious surfaces
  - (h.) Location of existing structures and either proposed structures or proposed building envelopes
  - (i.) Location and number of existing and proposed parking spaces, including loading spaces, maneuvering areas, and fire lane(s)
  - (j.) Location and size of buffer and landscape areas
  - (k.) Location of existing and proposed driveways and/or streets
  - (l.) Location of all flood zones
  - (m.) Location of adjoining properties and both the current zoning designation and use of these properties
  - (n.) Names and addresses of adjoining property owners
  - (o.) Number of stories and overall height of all existing and proposed structures
  - (p.) Location of existing and proposed dumpster and recycling container area(s) if applicable

- (q.) Generalized depiction or description of natural features on and immediately adjoining the site, including streams and other water bodies, steep slopes, areas covered by tree canopy, etc., and
- (r.) Other information determined by the *Planning, Zoning & Subdivision Administrator* as necessary to evaluate the request.

(2.) Preparation by professional. *Construction Plans* for developments requiring Site Development Plan review shall be prepared by a registered architect, engineer, landscape architect, and/or land surveyor licensed in the State of North Carolina for the work in which the professional is trained and licensed to perform; and shall be prepared in accordance with the standards set forth by the *Planning Department* and applicable state standards.

(H.) Final Plat. *Plats* for recording *Major Subdivisions* shall be prepared by a professional land surveyor in accordance with the standards set forth by the applicable state standards and in accordance with the standards and specifications of this Ordinance. The *Final Plat* of a *Major Subdivision* shall be reviewed by the *Planning, Zoning & Subdivision Administrator* for compliance with the requirements of this Ordinance and for conformity with the approved *Preliminary Plat*. Substantial changes from the *Preliminary Plat*, as determined by the *Planning, Zoning & Subdivision Administrator*, shall require an additional review by the *Planning, Zoning & Subdivision Administrator*, to ensure compliance. No *Final Plat* shall be approved by the *Planning, Zoning & Subdivision Administrator* until all improvements are installed, fees paid in lieu, or their execution guaranteed as permitted by this Ordinance and all certificates required for final *Plats* by this Ordinance or approvals by state law have been properly completed and signed. Provided the *Final Plat* is complete, and no further review is determined to be required, the *Planning, Zoning & Subdivision Administrator* shall act on the *Final Plat* of *Major Subdivisions* within ten (10) working days of receipt of the Mylar *Plat*. The *Planning, Zoning & Subdivision Administrator* is authorized to approve the *Final Plat* for recording and to present the *Final Plat* to the Village Council to grant approval and acceptance of dedications by resolution. Following *Final Plat* approval, the applicant shall record the *Plat* for a *Major Subdivision* in accordance with this subsection.

(I.) Signatures and recordation.

- (1.) Signatures. Upon approval of a *Final Plat* for *Major Subdivisions*, the *Plat* shall be signed in the appropriate place by the *Planning, Zoning & Subdivision Administrator* and by the owner(s). Additionally, approval shall be shown by a Certificate of Approval; Certificate of Review Officer; Certificate of Professional Land Surveyor; and Certificate of Ownership for recording. For *Major Subdivisions* installing new public infrastructure the following certificates shall also be shown where applicable: Certificate of Dedication; Certificate of Approval for Street and Road Maintenance; Certificate of Streets and Other Public Infrastructure Improvements; and Certificate of Water and Sewer System Approval. The language for these certificates appears at the end of Article 7 of this Ordinance.
- (2.) Recordation. A *Final Plat* for *Major Subdivisions* shall be recorded in the office of the register of deeds for the county in which the subject property is located in compliance

with North Carolina General Statutes within 60 days following approval by the Village of Marvin. No *Subdivision Plat* shall be considered finally approved until the *Plat* has been recorded. If the *Final Plat* of all or part of the area shown on an approved *Preliminary Plat* for a *Major Subdivision* is not recorded in the office of the register of deeds within two years of the approval by the Village of the *Preliminary Plat*, the *Preliminary Plat* shall be resubmitted to the *Planning, Zoning & Subdivision Administrator* for consideration following the process set forth in this Article. *Final Plats* for *Subdivisions* developed in phases shall be recorded in accordance with the schedule presented by the applicant during the *Preliminary Plat* approval and approved as part of the *Preliminary Plat* approval process. If the *Final Plat* of all or part of the area shown on an approved *Preliminary Plat* for a *Major Subdivision* to be developed in phases is not recorded in the office of the register of deeds within the schedule approved by the Village, the *Preliminary Plat* shall be resubmitted to the *Planning, Zoning & Subdivision Administrator* for consideration following the process set forth in this Article. No lots in a *Subdivision* shall be sold prior to approval by the *Planning, Zoning & Subdivision Administrator* and recording of a *Plat* for the *Subdivision*.

7.11-2 Minor Subdivisions.

- (A.) Purpose. The *Minor Subdivision* review process is required for those divisions of land meeting the definition of “*Subdivision, Minor*” appearing in Article 3 of this Ordinance. Review and approval of the preliminary and *Final Plat* by the staff permits a speedy review in accordance with G.S.160D-802(b) while ensuring that the proposed *Subdivision* meets all requirements established by the Village of Marvin.
- (B.) Pre-application conference. It is required that every *Subdivision* applicant meet with the *Planning, Zoning & Subdivision Administrator* prior to the submittal of a *Minor Subdivision Plat*. The purpose of this conference is to provide clarification and assistance in the preparation and submission of *Plats* for approval.
- (C.) Plat submittal.
- (1.) Plat required. *Plats* for *Minor Subdivisions* shall be prepared by a professional land surveyor licensed in the State of North Carolina for the work in which the professional is trained and licensed to perform; and shall be prepared in accordance with the standards set forth by the *Planning Department* and applicable state standards.
- (2.) Filing of application. A complete application containing all information as required by the Village of Marvin shall be submitted, along with applicable fees, to the *Planning, Zoning & Subdivision Administrator*.
- (D.) Staff review.
- (1.) Planning Department staff review.  
Plans for development not requiring Site Development Plan review shall be reviewed by the *Planning, Zoning & Subdivision Administrator* for compliance with the requirements of this Article.
- (E.) Final Plat approval.
- (1.) Recordation and signatures.
- (a.) Signatures. Upon approval of a *Plat* for *Minor Subdivisions*, said *Plat* shall be signed in the appropriate place by the *Planning, Zoning & Subdivision Administrator* and by the owner(s). Additionally, approval shall be shown by a Certificate of Approval; Certificate of Review Officer; Certificate of Professional Land Surveyor; and Certificate of Ownership for recording. The language for these certificates appears at the end of this Article.
- (b.) Recordation. A *Plat* for *Minor Subdivisions* shall be recorded by the developer of Marvin in the office of the register of deeds for the county in which the subject property is located within 60 days following approval by the *Planning, Zoning & Subdivision Administrator*. No *Plat* shall be considered finally approved until the *Plat* has been recorded. No lots in a *Subdivision* shall be sold prior to approval by the *Planning, Zoning & Subdivision Administrator* and recording of a *Plat* for the *Subdivision*.

(F.) Permit validity. *Minor Subdivision Plats* which have been granted approval shall be recorded as set forth in section 7.11-2(E)(1)(b) above within 60 days following approval or the approval becomes invalid.

## **7.12 Floodplain Development and Certification Permit**

Permitting procedures and requirements for Floodplains appear in Article 18 of this Ordinance.

## **7.13 Zoning Vested Rights**

Vested rights and permit choice are inherent rights established by G.S. 160D and applied herein accordingly. Each approval procedure stipulated in this Article establishes criteria in accordance with G.S. 160D-108 and G.S. 160D-108.1 for ensuring due process in the vesting of rights to develop, use and enjoy real property in accordance with applicable standards & specifications.

## **7.14 Notices and Hearings**

### **7.14-1 General notice requirements.**

(A.) All notices which this Article requires for hearings or public meetings shall identify the date, time and place of the hearing/public meeting and the nature and character of the proposed action. Where the action being taken concerns a particular property or properties, the notice shall also identify the location of the subject property.

(B.) Where specific notice requirements are set forth in the North Carolina General Statutes for a particular type of hearing, the requirements set forth in the North Carolina General Statutes shall be followed. Where these requirements conflict with procedures as stipulated in this subsection or elsewhere in this Article, the requirements contained in the North Carolina General Statutes will control. Evidentiary hearing notices appear in G.S. 160D-406(b) and legislative hearing notices appear in G.S. 160D-602.

7.14-2 Notice procedure. The following guidelines detail the notification procedure to be followed for hearings required by this Article unless otherwise set forth in this Article. Failure to follow procedures set forth in this section, other than those required by the North Carolina General Statutes, shall not affect the validity of any action taken at a hearing or public meeting. See G.S. 160D-406 (applicable to quasi-judicial procedures), 160D-602 (applicable to legislative actions).

7.14-3 Special notice requirements for telecommunications towers/structures. For any evidentiary hearing for special use applications for telecommunication towers as required by section 10.2-14 hereinafter, additional notice and evidentiary hearing requirements shall be provided as set forth in section 10.2-14 of this Ordinance.

## 7.15 Development Agreements

### 7.15-1 Authorization and Applicability

- (A.) The North Carolina General Statutes authorize the use of Development Agreements for the development of land in accordance with the criteria and procedures established in sections G.S. 160D-1001 through G.S. 160D-1012.
- (B.) In addition to any *Development Agreement* proposed for an eligible project, a *Development Agreement*, established pursuant to Sub-section 7.15-3 of this Ordinance, shall be required as part of all applications for the following:
  - (1.) Traditional Neighborhood Development Overlay (TNDO) District, Heritage (HD) District, Main Street (MS) District, and Mixed Use (MU-1 and MU-2) District and apply to all new development projects within the HD, TNDO, MS, MU-1, and MU-2 Districts.
  - (2.) *Major Subdivisions* in any district where new street infrastructure will be developed.

### 7.15-2 Content of Development Agreement (*Amended January 14, 2025*)

- (A.) The development agreement shall establish the period of time for completion of the development and construction of the project subject to the agreement.
- (B.) The development agreement shall establish the property to which the agreement shall apply by metes and bounds description attached to the agreement as “Exhibit A”.
- (C.) The development agreement shall cite all terms and conditions applicable to the development of the land subject to the agreement including standards and/or specifications that differ from the provisions of this Ordinance.
- (D.) The development agreement shall provide that the delivery date of such public facilities will be tied to successful performance by the developer in implementing the proposed development.
- (E.) The development agreement shall set forth and establish all Common Open Space areas, improvements, and maintenance obligations.

### 7.15-3 Procedures for Entering into Development Agreements

- (A.) The development agreement shall be drafted in a format as directed by the Planning, Zoning & Subdivision Administrator. The development agreement shall then be presented to the *Planning Board* for a formal recommendation at a regularly scheduled meeting. Said meeting shall be held prior to notification for a legislative hearing by the Village Council.
- (B.) The development agreement and the *Planning Board* recommendation shall be published for public inspection and notification shall be made in accordance with the provisions of G.S. 160D-601.



- (C.) The notice for the legislative hearing must specify the location of the property subject to the development agreement, the development uses proposed on the property, and must specify a place where a copy of the proposed development agreement can be obtained.
- (D.) The development agreement shall be presented at a legislative hearing allowing an opportunity for the public to comment on the proposed development agreement. The information presented at the legislative hearing shall be considered by the Village Council in formulating its decision on the approval of an ordinance authorizing approval of said agreement.
- (E.) Upon finding that said agreement is in the best interest of the Village of Marvin, the Village Council may by adoption of an ordinance adopting the development agreement and authorizing its execution by the Mayor, approve such agreement to be administered in full force and effect by the *Planning, Zoning & Subdivision Administrator*.
- (F.) The development agreement shall be recorded in the office of the Register of Deeds of the county in which the subject property is located within fourteen (14) days of execution and prior to the issuance of any development permits authorizing development activities to commence.

#### 7.15-4 Administration of Development Agreements and Termination for Material Breach

- (A.) The development agreement shall run with the land obligating the parties to the agreement to any and all stipulations therein and may only be amended in accordance with the laws of North Carolina governing such agreements as stipulated in section 7.15-1 herein.
- (B.) The *Planning, Zoning & Subdivision Administrator* shall conduct a periodic review at least every 12 months, at which time the developer is required to demonstrate good faith compliance with the terms of the development agreement. If, as a result of a periodic review, the *Planning, Zoning & Subdivision Administrator* finds and determines that the developer has committed a material breach of the terms or conditions of the agreement, the *Planning, Zoning & Subdivision Administrator* shall serve notice in writing, within a reasonable time after the periodic review, upon the developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the developer a reasonable time in which to cure the material breach.
- (C.) If the developer fails to cure the material breach within the time given, then the Village of Marvin may unilaterally terminate or modify the development agreement. In accordance with G.S. 160D-1008(c) the notice of termination or modification may be appealed to the Board of Adjustment in the manner provided by G.S. 160D-405.
- (D.) A development agreement adopted pursuant to this Section shall not exempt the property owner or developer from compliance with the State Building Code or State or local housing codes that are not part of this Ordinance.

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## **7.16 Traffic Impact Analysis** *(Amended June 10, 2025)*

- 7.16-1 Purpose and Definition. Transportation system integrity is an important consideration for our community when a significant development is proposed. Public policy makers, citizens and developers all have a stake in understanding and responding to additional demands on the transportation system. A Transportation Impact Analysis (TIA) is a tool used to evaluate the incremental impacts on the surrounding transportation infrastructure and how to mitigate them to maintain safe traffic and transportation operations. Any key terms of this Ordinance shall be defined in Article 3 of the Marvin Development Ordinance.
- 7.16-2 TIA Determination. The Village shall determine the need for a TIA upon receipt of any development application (by-right or rezoning) accompanied by a sketch or schematic plan. Types of development applications could include, but are not limited to, multi-family developments, single family developments, commercial developments, or industrial developments. If warranted, the transportation consultant assigned by the Village shall prepare the TIA. At the discretion of the North Carolina Department of Transportation (NCDOT) and the Village, a Transportation Technical Memorandum, in lieu of a full TIA report, may be allowed for some developments. If proposed street connections are not consistent with adopted plans, then an explanation or proposed transportation mitigation alternative that is equal or better shall be discussed in the study. NCDOT and the Village will be responsible for determining whether the alternative mitigation plan meets and/or exceeds the performance standards of the proposed street connections in the adopted plans.
- 7.16-3 Minimum Thresholds for TIA. A TIA will be required to accompany the sketch/schematic plan when expected gross trip generation is 1000 total trips or more both entering and exiting the site in a 24-hour period, and/or 100 total trips both entering and exiting the site during either the AM or PM peak hours (prior to any trip reductions applied - see Section 7.16-5(10) of this Article. The gross trip generation will be calculated by the Village based on information (proposed project summary and development plan) provided by the applicant and the final determination for requiring the TIA will be made by the Village. The Village may also determine the need for a TIA or Transportation Technical Memorandum based on special circumstances associated with the development, even if the gross trips falls below this threshold. This may be due to location, an intersection or thoroughfare nearby that is at or above capacity, the nature of the use, or one of the following:
- (1.) Traffic generated from a non-residential development that could potentially significantly impact adjacent residential neighborhoods.
  - (2.) Traffic operation issues for current and/or future years on nearby streets are expected to be significantly worsened by traffic generated from the proposed new development.
  - (3.) Major and minor thoroughfares near the site are experiencing significant/unacceptable delays.
  - (4.) Traffic safety issues exist at the intersection or street that would serve the proposed new development.
  - (5.) The proposed land use differs significantly from the adopted Small Area Plans for the Village and/or the Comprehensive Land Use Plan.

- (6.) The internal street or access system is not anticipated to accommodate the expected traffic generation.
- (7.) The proposed development project includes a drive-through facility, or other uses such as schools that require significant on-site circulation that may have an off-site impact to adjoining roads and/or intersections.
- (8.) The amount, behavior and/or assignment of traffic is significantly different from a previously approved TIA, or more than 24 months have passed since completion of previous TIA.

#### 7.16-4 Procedure.

- (1.) Scoping Meeting – A mandatory scoping meeting is required prior to beginning the TIA to discuss the requirements and strategies for a TIA specific to the site and the proposed development. Background information shall be submitted by the applicant and shall include the intended phasing scheme, proposed build-out year, and a conceptual site plan showing proposed access points, proposed land use and densities, structure and parking envelopes. The Village, the transportation consultant assigned by the Village, and the applicant(s) are required to attend the mandatory scoping meeting. Representatives from the NCDOT District office will be invited and encouraged to attend as needed. The applicant may invite members of his/her development team as needed.
- (2.) Memorandum of Understanding (MOU) – A MOU, documenting the understood scope and parameters of the TIA, shall be prepared by the transportation consultant assigned by the Village. A schedule will be developed and affirmed by all parties. The MOU shall be signed by the applicant and the Village before the consultant can begin work on the TIA. Approval by the NCDOT District Engineer will also be required if access to a state road is involved. Failure by the applicant to provide accurate information or failure by the assigned transportation consultant to follow the MOU shall result in disapproval of the TIA. If significant changes are made to the parameters outlined in the MOU, a revised MOU will be required.
- (3.) Fees – Prior to the scoping meeting, the transportation consultant assigned by the Village shall submit a summary of consultant fees to the Village to perform the scoping portion of the TIA. The applicant shall agree to provide payment in full to the Village for these services prior to scheduling the scoping meeting. After the MOU is prepared, changes by the applicant which require updates to the MOU, will result in additional services and must be paid for by the applicant prior to performance of the additional work.

After the scoping meeting, the transportation consultant assigned by the Village shall submit a summary of consultant fees for preparing the TIA to the Village. These fees will account for the work completed throughout the scoping process. Per the MOU, the applicant shall agree to provide payment in full to the Village for preparation of the TIA so that the Village can release the work to the consultant. The Village may require all or a portion of the estimated fees to be paid to the Village prior to commencement of the work. Any additional services incurred by the transportation consultant in addition to the MOU must be approved by the Village and agreed to and paid for by the applicant prior to performance of the additional work.

- (4.) Development Agreement – Upon completion of the TIA, certain on- or off-site transportation mitigation measures may be required as recommended by the TIA. If so, these improvements will be defined in the Development Agreement, as outlined in the *Marvin Development Ordinance*. All required mitigation measures must be implemented prior to the final Certificate of Occupancy (CO).

7.16-5 TIA Outline and Contents. The outline and contents of what is required to be included in the TIA will be discussed at the scoping meeting and included in the MOU. A detailed summary of the expected content and methodologies to be used in the TIA is discussed below.

- (1.) Cover/Signature page – Includes the project name, location, name of the applicant, contact information for the applicant, and date of the study. The name, contact information, registration number, signature, and seal of a duly qualified and registered professional engineer in the State of North Carolina are also required to appear on this page.
- (2.) Table of Contents – Includes a list of all section headings, figures, tables, and appendices included in the TIA report. Page numbers shall denote the location of all information, excluding appendices, in the TIA report.
- (3.) Executive Summary – Includes a description of the study findings, a general description of the project scope, study horizon years, expected transportation impacts of the project, and mitigation measure recommendations. Technical publications, calculations, documentation, data reporting, and detailed design shall not be included in this section.
- (4.) Project Description – Includes a detailed description of the development, including the size of the parcel, development size, existing and proposed uses for the site, anticipated completion dates (including phasing). It shall also include the square footage of each use and/or the number and size of dwelling units proposed, and a map and copy of the site plan provided by the applicant.
- (5.) Site Description – Includes a description of the project location within the Village and region, existing zoning and use (and proposed use if applicable), and key physical characteristics of the site, including general terrain and environmentally sensitive or protected areas.
- (6.) Site Access – A complete description of the ingress/egress of the site shall be explained and depicted. It shall include number of driveways, their locations, distances between driveways and intersections, access control (full-movement, leftover, right-in/right-out, etc.) types of driveways (two- way, one-way, etc.), traffic controls, etc. Internal streets (lanes, flow, and queuing), parking lots, sidewalks, bicycle lanes, and designated loading/unloading areas shall also be described. Similar information for adjacent properties, including topographic grade relationship, shall be provided to evaluate opportunities for internal connections. The design, number, and location of access points to collector and arterial roadways immediately adjacent to the site must be fully analyzed. The number of access points shall be kept to a minimum and designed to be consistent with the type of roadway facility. Driveways serving the site from state roads shall be designed in accordance with the NCDOT's Policy on Street and Driveway

Access and/or the Village standards, as applicable.

- (7.) Study Area – The limits of the study area shall be based on the location, size and extent of the proposed project, and an understanding of existing and future land uses and traffic conditions surrounding the site. The limits of the study area for the TIA shall be reviewed and approved by the Village and NCDOT staff at the mandatory scoping meeting. At a minimum, the study area shall include all streets and signalized intersections within a 1- mile radius of the proposed site and/or where site traffic estimated for build- out of the project will constitute 10% or more of any signalized intersection approach during the peak hour. During the scoping meeting, staff may reduce the radius due to conditions specific to the site based on request by applicant and supported with valid reasoning. Should study area intersections outside of the Village be identified, adjacent municipalities will be notified. Unsignalized intersections between the required signalized intersections will be added to the scope as directed by the Village. To initially determine the impacts, the Village will maintain a database of recent peak- hour intersection turning movement counts. The applicable intersection counts will be equated to current year baseline volumes. Based on the proposed development program submitted by the applicant, a preliminary trip generation analysis, distribution and assignment will be performed within the area surrounding the site and compared to the current year base volumes. Related impacts or current operational problems, may dictate that other intersections be included in the study area as determined by Village staff and/or NCDOT staff. A narrative describing the study area shall identify the location of the proposed project in relation to the existing transportation system and list the specific study intersections and/or segments. Any unique transportation plans or policies applicable to the area (e.g., CATS bus service and small area plans) shall be mentioned. A site location map shall be provided and shall identify natural features, major and minor roadways within the study area, study intersections, and a boundary of the site under consideration.
- (8.) Existing Conditions – Shall include a narrative and map that represents AM and PM peak-hour turning-movement volumes for all intersections within the study area. Traffic volumes shall represent 15-minute interval weekday turning-movement counts (Tuesday through Thursday), include heavy- vehicle, pedestrian and bicycle counts, no more than twelve months old and shall be collected during periods of the year when local schools are in session and during weeks that have no observed federal, state, or local holidays and periods. The required count timeframes are from 6:00-9:00AM and 4:00- 7:00PM. Site-specific conditions may necessitate additional or different traffic counting hours and/or days depending on the development program and location within the Village. These unique circumstances will be determined and directed by the Village. The Village will determine if modified peak hours or weekend analyses shall be included in the TIA at the mandatory scoping meeting. For example, 12- or 16- hour turning movement counts shall be required to complete the analysis if a traffic signal warrant analysis is required as part of the TIA. The source of existing traffic volume information shall be explicitly stated (e.g., Village counts, new counts collected by the applicant, NCDOT counts, etc.). If previous counts were obtained,

only counts collected within the one year of the scoping meeting will be deemed acceptable. Summary sheets for existing turning movement counts shall be included in the appendix of the TIA report. A separate narrative and map shall be prepared to describe the characteristics of surrounding major roadways, including functional classification, number of lanes, posted speed limit, existing average daily traffic volumes, typical cross section, intersection control, and lineal distance between major roadways. Field notes for the existing conditions investigation may be included in the appendix of the TIA report.

- (9.) Future Year Conditions – Unless otherwise approved by the Village, future year conditions for a single-phase development shall be analyzed for the year the development is expected to be at full occupancy (build-out year) and five years after the build-out year (build-out + 5). For multiple-phased developments, the scenarios shall be completed in order, with any improvements specified by development included in the subsequent build scenarios, including five years after the full build-out year (build-out + 5). Specific analysis periods to include in the study shall depend greatly upon the development program, proposed project phasing plan, and significant improvements programmed for the surrounding transportation system. The approved offsite developments and transportation projects to be included in the base future-year background conditions for the transportation system within the study area shall be determined during the scoping meeting. Transportation improvements assumed in the future-year background conditions analysis may include those with an expected completion date concurrent with that of the development and funded either by the Village, NCDOT, or indicated as a required condition of approval from another nearby development application. Only projects approved by the Village at the scoping meeting may be included in the analysis as future existing infrastructure. Those improvements committed by other projects must be clearly identified in the report as approved offsite development road improvements. Adjacent development traffic information used in the development of the future year background traffic volumes shall be included in the appendix of the TIA report. Unfunded, planned infrastructure projects may be mentioned in the TIA, but the description shall specifically identify that these projects are not included in the background condition. Future year background traffic volumes shall be forecasted using historical growth rate information, regional models, and/or TIA reports for development approved by the Village but not yet built. A narrative and map shall be prepared that presents turning movement volumes for each peak hour for all intersections identified within the study area. Future year base traffic volumes, other development volumes, and site traffic volumes shall be clearly separated and combined in the map.
- (10.) Trip Generation – Base trip generation for the proposed land use(s) shall be calculated using data published in the latest version of the Institute of Transportation Engineers' (ITE) Trip Generation Manual. Data limitations, data age, choice of peak hour of adjacent street traffic, choice of independent variable, and choice of average rate versus equation shall be discussed at the mandatory scoping meeting. Local trip generation rates may be acceptable if appropriate



validation is provided by the applicant to support them. Any deviation from ITE trip generation rates shall be discussed in the mandatory scoping meeting and documented in the MOU if approved by the Village and NCDOT. The NCDOT Municipal School Transportation Assistance (MSTA) calculator shall be used to calculate projected trip generations for school sites.

- a. Internal Capture – Base trip generation may be reduced by rate of internal capture when two or more land uses are proposed using methodology recommended in the most current Trip Generation Handbook published by the ITE, or research published by the National Cooperative Highway Research Program (NCHRP) Transportation Research Board. Reductions for internal capture shall be applied to multi- or mixed-use sites only. The internal capture reduction shall be applied before pass-by trips are calculated.
  - b. Pass-by Trips – Pass-by trips are those made as intermediate trips between an origin and primary destination (i.e., home to work, home to shopping, etc.). However, pass-by trips are not diverted from another roadway. Base trip generation may be reduced by rate of pass-by capture using methodology recommended in the most current Trip Generation Handbook published by the ITE. Pass-by trips associated with the development program may not exceed 10% of the peak-hour volume reported for the adjacent public street network. This network shall include the streets that provide primary access to/from the site. For example, if a site access drive that connects to a low-volume local street, which its primary access is to a major collector road, the traffic on the major collector shall be used as the adjacent street for pass-by calculation purposes. Evaluation of diverted trips may apply depending on the specifics of each site. A trip generation table shall summarize all trip generation calculations for the project.
- (11.) Trip Distribution – External trip distribution shall be determined on a project- by- project basis using one of several sources of information available to transportation and land planning professionals. Potential sources for determining project trip distribution may include the regional travel demand model, market analysis, existing traffic patterns, or professional judgment. At the Village’s direction, multiple trip distributions may be required for differing land use types. Regardless of methodology, the procedures followed and logic for estimating trip distribution percentages must be well- documented in the TIA. Trip distribution percentages proposed for the surrounding transportation network shall be discussed during the scoping meeting and shall be approved by the Village and NCDOT before proceeding with the TIA. A map showing the percentage of site traffic on each street included in the study area shall be included in the TIA.
- (12.) Trip Assignment – Project traffic shall be distributed to the surrounding transportation system based on the site’s trip generation estimates and trip distribution percentages. Future year build-out traffic forecasts (i.e., future year background traffic plus project traffic) shall be represented in graphic formats for AM and PM peak-hour conditions at all intersections included in the study area.



If the project is to be built in phases, traffic assignments shall be reported for each phase. Pass-by traffic shall be included at the driveways and access points for evaluating driveway volumes. Multiple assignment analyses may be required if the traffic control at the access drives varies (i.e., right-in/right-out vs. stop controlled vs. signalized).

(13.) Operations Analysis – The TIA shall include multi-modal operations analyses including vehicular, pedestrian and bicycle, to allow for the safe and convenient travel for all modes. Level-of-Service (LOS) and delay is the primary measures of effectiveness for impacts to the transportation system, and is defined by the most current edition of the Highway Capacity Manual (HCM). Operations analyses shall be performed for the existing and all future year scenarios, as described in Section D (17) Impacts from the proposed project shall be measured by comparing the future year background conditions to the future year build-out conditions. Requirements for mitigation are described in Section D (17).

- a. Vehicular Capacity Analysis - Unless otherwise noted, Synchro LOS and delay shall be reported for all signalized intersections and approaches identified in the study area. Based on HCM, LOS for unsignalized intersections is not defined as a whole; instead, only the individual stop-controlled or yield approaches shall be reported based on the HCM reports determined through the Synchro analysis. Existing signalized intersections shall be modeled based on existing signal timing plans provided by either the Village or NCDOT. Existing signal timing plans shall be included in the appendix of the TIA report. If a traffic signal is part of a coordinated system it must be analyzed as such under all conditions. Other standard practices and default input values for evaluating signalized intersections shall be consistent with the most recent guidelines published by the NCDOT, Traffic Engineering and Safety Systems Branch, Congestion Management Unit (“Capacity Analysis Guidelines”). The Village may also require safety, traffic simulation, gap and/or other analyses appropriate for evaluating a development application. Additional analyses and/or traffic capacity or simulation tools (such as VISSIM or Transmodeler) required for the TIA shall be identified during the scoping meeting. All TIA reports submitted to the Village shall use Synchro, SimTraffic, VISSIM and/or Transmodeler analysis software for signalized and unsignalized intersections, or Sidra Software for roundabouts, consistent with policies released by the NCDOT. A narrative, table, and map shall be prepared that summarizes the methodology and measured conditions at the intersections reported in LOS (LOS A – F), the intersection and approach signal delay for signalized intersections, the approach delay for unsignalized intersections, and 95th percentile queue lengths for all movements. Capacity analysis worksheets and auxiliary turn-lane warrants for unsignalized intersections shall be included in the appendix of the TIA report.
- b. Pedestrian Operations Analysis - Unless otherwise noted, methodology provided in the latest edition of the Highway Capacity Manual shall be used to evaluate pedestrian LOS for the intersections identified in the study area. The

current methodology is based on geometric data, demand data, and signal control data including, but not limited to:

1. Number of lanes on the major street
  2. Crossing distance
  3. Traffic volumes
  4. Motorist yielding rates to pedestrians
  5. Cycle Length
  6. Walk Time
  7. Presence of pedestrian phase
- c. Bicycle Operations Analysis – The bicycle LOS at intersections identified in the study area shall be evaluated using locally accepted methodology. This current methodology assesses bicyclists’ comfort based on geometric and traffic signal features including, but not limited to:
1. Number of lanes crossed
  2. Presence of conflicting turning movements
  3. Presence of bike lanes

Under this methodology, intersection features are assigned points, where the LOS for each approach is calculated based on the accumulation of points for each geometric and traffic signal feature identified in the worksheet.

Currently, this methodology does not take into account demand volumes; therefore, the bicycle LOS would not differ between AM and PM peak hours and thus would not need to be reported for both under this methodology.

- (14.) Queuing Analysis – 95th percentile and simulation analysis of future year queues shall be consistent with NCDOT’s Traffic Engineering and Safety Systems Branch, Congestion Management Unit current practices and published Capacity Analysis Guidelines. Turn lanes and storage lengths for the major street (uncontrolled) approaches at unsignalized intersections shall be identified using volume thresholds published in the NCDOT’s Policy on Street and Driveway Access to North Carolina Highways (see Warrant for Left- and Right- Turn Lanes Nomograph, pg. 80). Recommendations for left and right-turn lanes serving the site shall be designed to account for both the NCDOT warrants described above and to meet future year capacity needs identified through the capacity analyses. For projects that include drive- through facilities, pick- up/drop-off areas, or entrance gates, a queuing analysis may be required by the Village to ensure that vehicle stacking will not adversely impact the public transportation system. The queuing analysis must be performed using accepted transportation engineering procedures approved by the Village. If a TIA is required for a new school site, the internal circulation and ingress/egress of the site shall be modeled using a “dummy signal” in the Synchro software as prescribed by NCDOT Municipal School Transportation Assistance (MSTA) department.

- (15.) Crash Analysis – A summary of crash data (type, number, and severity) for the most recent 3-year period at each study location is required. Traffic Engineering Accident Analysis System reports will be provided by the Village and/or NCDOT and shall be included in the appendix of the TIA report. For locations with prevalent crash types and/or frequency, a discussion shall be included describing factors that may be contributing to the incidents. At a minimum, the proposed development features shall not contribute to factors potentially involved in the existing crash rates. If contributing factors are identified, recommendations to eliminate or mitigate these features shall be included.
- (16.) Traffic Signal Warrants – Village staff and/or NCDOT may consider potential signal locations at the scoping meeting. However, traffic flow progression is of paramount importance when considering a new traffic signal location. A new traffic signal shall not cause an undesirable delay to the surrounding transportation system. Installation of a traffic signal at a new location shall be based on the application of warrants criteria contained in the most current edition of the Manual on Uniform Traffic Control Devices (MUTCD) and engineering judgment. Traffic signal warrants shall be included in the appendix of the TIA report. Additionally, spacing of traffic signals within the Village must adhere to NCDOT requirements. Pedestrian movements must be considered in the evaluation and adequate pedestrian clearance provided in the signal cycle split assumptions. If a signal warrant analysis is recommended in the TIA, the Village and/or NCDOT may decide to defer a signal warrant analysis until after the development has opened to allow use of actual turning movement counts at an intersection. The TIA recommendations must clearly state that this analysis shall occur at a specified date following the opening of the development. The applicant must issue a bond or letter of credit in the name of the Village for the estimated cost of the signal warrant analysis and resulting signal prior to final approval of the TIA. The cost shall be established based on an engineer's estimate provided by the consultant identified by the Village.
- (17.) Mitigation Measure Recommendations – This section of the TIA report shall provide a description of the study's findings regarding impacts of the proposed project on the existing and future transportation system and describe the location, nature, and extent of all mitigation measures recommended to the applicant to improve and/or maintain the future year background level-of- service (LOS) conditions through phasing and ultimate build-out of the project. This mitigation will be identified by measuring the impact between the future year background conditions and the future year build-out conditions. The applicant is required to mitigate transportation deficiencies caused solely by the projected

impact of their proposed development, and not unacceptable background conditions or other deficiencies caused by offsite development within the defined study area. The applicant shall be required to identify mitigation improvements to the transportation network if at least one of the following conditions exists when comparing the multimodal operations analyses of future year background conditions to future year build-out conditions:

- a. the total average delay at an intersection or individual approach increases by 25% or greater, while maintaining the same LOS,
- b. the LOS degrades by at least one level, or
- c. the LOS is at or below the LOS threshold dictated by the zoning (as outlined in Table 1) in background conditions and the proposed project shows a negative impact on the intersection or approach

The following LOS table (Table 1), using the most recent Level of Service methodology, shall be used when determining the adequacy of intersection/approach within the applicable impact areas of the Village:

<b>Table 1: LOS Thresholds</b>		
Zoning District	Vehicular LOS Threshold	Bike/Ped LOS Threshold
RR, CIV	C	E
SFR, VSR, IND	D	D
MHD, MS, MU, C-16,	E	C
Within a Small Area Plan Boundary	E	C
All Other	D	D

Where an intersection/approach is located within more than one zoning district and is not located within a small area plan boundary, the less restrictive LOS shall apply to the entire intersection or approach for purposes of complying with this ordinance.

If the background LOS (intersection or approach) is inadequate (i.e., at or below the threshold), the applicant will be expected to mitigate only the impact caused by the proposed project. For example, if the background LOS of an approach is LOS F with 85 seconds of delay, and the project traffic increases the delay to 95 seconds at LOS F, the applicant will be required to mitigate the added 10 seconds of delay on the approach, not required to mitigate the inadequate background delay. Village staff and NCDOT will review the recommendations in the final version of the TIA and will have the ultimate determination in the scope of the required mitigation measures.

A Developer Agreement as outlined in Part C (4) of this ordinance may apply if mitigation requirements are needed.

For multi-phase developments, capacity analyses scenarios shall address the phasing of improvements for each phase of development. The build-out + 5 scenario will require the analysis of only five years beyond the full build-out year. The build-out + 5 scenario analysis is not used for mitigation purposes. A narrative and table shall be prepared that summarizes the methodology and measured conditions at the intersections reported in LOS (LOS A–F) and average control delay for each intersection and approach.

A narrative and map shall also be prepared that describes and illustrates recommended improvements, by development phase if necessary, for mitigating the projected impact of the proposed development.

- (18.) Compliance with Adopted Small Area/Transportation Plans – All TIA reports must include a statement of compliance with plans, programs, and policies, including small area plans, adopted by the Village of Marvin for maintaining a safe and efficient multi-modal transportation system.