

Article 3B.

Dedication of Right-of-Way with Density or Development Rights Transfer.

§ 136-66.10. Dedication of right-of-way under local ordinances.

(a) Whenever a tract of land located within the territorial jurisdiction of a city or county's zoning or subdivision control ordinance or any other land use control ordinance authorized by local act is proposed for subdivision or for use pursuant to a zoning or building permit, and a portion of it is embraced within a corridor for a street or highway on a plan established and adopted pursuant to G.S. 136-66.2, a city or county zoning or subdivision ordinance may provide for the dedication of right-of-way within that corridor pursuant to any applicable legal authority, or:

- (1) A city or county may require an applicant for subdivision plat approval or for a special use permit, conditional use permit, or special exception, or for any other permission pursuant to a land use control ordinance authorized by local act to dedicate for street or highway purpose, the right-of-way within such corridor if the city or county allows the applicant to transfer density credits attributable to the dedicated right-of-way to contiguous land owned by the applicant. No dedication of right-of-way shall be required pursuant to this subdivision unless the board or agency granting final subdivision plat approval or the special use permit, conditional use permit, special exception, or permission shall find, prior to the grant, that the dedication does not result in the deprivation of a reasonable use of the original tract and that the dedication is either reasonably related to the traffic generated by the proposed subdivision or use of the remaining land or the impact of the dedication is mitigated by measures provided in the local ordinance.
- (2) If a city or county does not require the dedication of right-of-way within the corridor pursuant to subdivision (1) of this subsection or other applicable legal authority, but an applicant for subdivision plat approval or a zoning or building permit, or any other permission pursuant to a land use control ordinance authorized by local act elects to dedicate the right-of-way, the city or county may allow the applicant to transfer density credits attributable to the dedicated right-of-way to contiguous land that is part of a common development plan or to transfer severable development rights attributable to the dedicated right-of-way to noncontiguous land in designated receiving districts pursuant to G.S. 136-66.11.
- (3) Units of local government that require or accept right-of-way dedications under this subsection shall notify the applicant and the property owner when the local government begins review of or negotiations for a right-of-way dedication and associated density credit transfer, whichever first occurs. If the property owner is not the applicant, then the property owner shall be given notification of right-of-way dedications and any related density credit transfers under this subsection. The notification shall be sent to the last known address for the owner and shall include a copy of this section and any local ordinances, policies, or procedures governing the calculation and application of the density credit transfer.

(b) When used in this section, the term "density credit" means the potential for the improvement or subdivision of part or all of a parcel of real property, as permitted under the terms of a zoning and/or subdivision ordinance, and/or other land use control ordinance authorized by local act, expressed in dwelling unit equivalents or other measures of

development density or intensity or a fraction or multiple of that potential that may be transferred to other portions of the same parcel or to contiguous land in that is part of a common development plan. (1987, c. 747, s. 7, 1989, c. 595, s. 4; 2014-108, s. 8(a).)