2. ADMINISTRATION

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ARTICLE 2. ADMINISTRATION

SECTION 2.1. PURPOSE AND ORGANIZATION OF THIS ARTICLE

This Article sets forth the review and approval procedures for development applications.

A. Section 2.2, Summary Table of Development Review Responsibilities, summarizes the development review responsibilities of each review body and official for each type of application;

B. Section 2.3, Advisory and Decision-Making Bodies and Persons, identifies the powers and duties of each review body and official and official under this Ordinance;

C. Section 2.4, Standard Application Requirements and Procedures, establishes a standard set of review procedures for the review of development applications.

D. Section 2.5, Application-Specific Review Procedures and Standards, includes the specific review standards and any unique procedural review requirements for each type of application.

SECTION 2.2. SUMMARY TABLE OF DEVELOPMENT REVIEW RESPONSIBILITIES

Table 2.2: Summary Table of Development Review Responsibilities, identifies the types of applications authorized by this Ordinance. For each type of application, Table 2.2 identifies the action required by the various advising or decision-making bodies or persons.

Table 2.2 Summary Table of Development Review Responsibilities

D: Decision R: Recommendation S: Staff Review A: Appeal <_>: Public Hearing

Type of Application	City Council	Planning and Zoning Commission	Board of Adjustment	Planning Director	Director of Engineering
Discretionary Review					
Text Amendment	<D>	<R>		S	
Zoning Map Amendment	<A>, <D> [1]	<D> [1]		S	
Conditional Zoning	<A>, <D> [1]	<D> [1]		S	
Planned Development	<A>, <D> [1]	<D> [1]		S	
Special Use Permit			<D>	S	
Site Plan and Subdivision					
Site Plan			<A>	D	
Minor Subdivision					
Preliminary Plat			<A>	D	S
Final Plat			<A>	D	S [3]
Major Subdivision					

Table 2.2 Summary Table of Development Review Responsibilities
D: Decision R: Recommendation S: Staff Review A: Appeal <_>: Public Hearing

Type of Application	City Council	Planning and Zoning Commission	Board of Adjustment	Planning Director	Director of Engineering
Preliminary Plat				D [2]	
Construction Plans					D
Final Plat			<A>	D	
Exempt Subdivision Determination				D	
Permits					
Zoning Clearance Permit			<A>	D	
Certificate of Compliance			<A>	D	
Tree Removal Permit			<A>	D	
Temporary Use Permit			<A>	D	
Home Occupation Permit			<A>	D	
Sign Permit			<A>	D	
Grading Permit			<A>		D
Erosion Control Permit					D [4]
Floodplain Development Permit			<A>	D	
Stormwater Management Permit			<A>		D
Relief					
Variance – Zoning			<D>		
Variance – Watershed Protection		<D> [5]			
Administrative Adjustment			<A>	D	
Appeal of Administrative Decision			<D>		
Other Procedures					
Interpretation			<A>	D [6]	D [6]
Density Averaging Certificate		D		S	
Special Intensity Allocation		D		S	
Certificate of Nonconformity Adjustment			<D>	S	

Table Notes:

[1] Final decision is by the Planning and Zoning Commission by three-quarters majority of voting members. If approved by a smaller majority, if denied, or if the Planning and Zoning Commission's decision is appealed, City Council makes the final decision.

[2] The Technical Review Committee (TRC) shall review the application and provide comments on the application to the Planning Director.

[3] Required if the subdivision includes water or sewer utility extensions.

[4] Erosion and sedimentation controls for land disturbing activities of one acre or more are administered by the state, and state standards, requirements, and procedures apply.

[5] For applications for a major variance from the WPO District requirements, the North Carolina Environmental Management Commission (the "EMC") reviews the record of the public hearing and prepares a decision that authorizes the Planning and Zoning

Table 2.2 Summary Table of Development Review Responsibilities
D: DECISION R: RECOMMENDATION S: STAFF REVIEW A: APPEAL <_>: PUBLIC HEARING

TYPE OF APPLICATION	CITY COUNCIL	PLANNING AND ZONING COMMISSION	BOARD OF ADJUSTMENT	PLANNING DIRECTOR	DIRECTOR OF ENGINEERING

Commission to issue a final decision either approving or denying the application. The Planning and Zoning Commission then issues a final decision on the application in accordance with the EMC's decision.

[6] The Director of Engineering renders interpretations of the provisions in Section 5.10, Stormwater Management Standards; the Planning Director renders all other interpretations.

[7] Abbreviations in table for actions required: D = Decision; R = Recommendation; S=Staff Review; A=Appeal; <_>=Public Hearing

SECTION 2.3. ADVISORY AND DECISION-MAKING BODIES AND PERSONS

A. CITY COUNCIL

(1) POWERS AND DUTIES

To exercise the authority granted to the City Council by state law, the City Council shall have the following powers and duties under this Ordinance:

a. To review and make a decision on the following:

1. Zoning text amendments (Section 2.5.A(1)).

b. If approved by less than three-quarters majority of voting members of the Planning and Zoning Commission, if denied by the Planning and Zoning Commission, or if the Planning and Zoning Commission's decision is appealed, to review and make a decision on the following:

1. Zoning map amendments (Section 2.5.A(2));

2. Conditional zonings (Section 2.5.A(3)); and

3. Planned developments (Section 2.5.A(4)).

c. To adopt a schedule of fees for applications for development approvals and permits reviewed under this Ordinance in accordance with state law, and to adopt a schedule of civil penalties for violations of this Ordinance;

d. To adopt a Comprehensive Plan and amendments to the Comprehensive Plan, and to adopt small area plans, other long-range plans, and special studies;

e. To extend the City's corporate limits in accordance with N.C.G.S. Chapter 160A; and

f. To take any other action authorized by state law and not delegated to the Planning and Zoning Commission, the Board of Adjustment, the Planning Director, the Director of Engineering, or another other body or official, as the City Council deems desirable and necessary to implement the provisions of this Ordinance and the Comprehensive Plan.

(2) CONFLICT OF INTEREST

A member of the City Council shall not vote on any legislative decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A member of the City Council shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

B. PLANNING AND ZONING COMMISSION

The Planning and Zoning Commission of the City of Kannapolis is hereby established in accordance with state law.

(1) POWERS AND DUTIES

The Planning and Zoning Commission shall have the following powers and duties under this Ordinance:

a. To review and make decisions on applications for the following, provided, if the application is approved by less than a three-quarters majority of voting members or denied, or if the Planning and Zoning Commission's decision is appealed, the City Council shall make the final decision on the application:

1. Zoning Map amendments (Section 2.5.A(2));

2. Conditional zonings (Section 2.5.A(3));

3. Planned developments (Section 2.5.A(4));

4. Watershed protection variances (Section 2.5.D(2));

5. Density Averaging Certificates (Section 2.5.E(2)); and

6. Special Intensity Allocations (Section 2.5.E(3));

b. To review and make recommendations to the City Council on zoning text amendments (Section 2.5.A(1));

c. To serve as the Watershed Review Board;

d. To advise and provide recommendations to the City Council on amendments to the Comprehensive Plan, including preparing amendments to the plan and its elements and submitting those amendments to the City Council;

e. To oversee, review, and recommend to City Council the adoption of small area plans, other long-range plans, and special studies; and

f. Any other powers and duties delegated to it by the City Council in accordance with state law.

(2) MEMBERSHIP, APPOINTMENT, AND TERMS OF OFFICE

a. The Planning and Zoning Commission shall consist of nine members appointed by the City Council.

b. Before serving on the Planning and Zoning Commission, each member shall take the oath of office in accordance with NCGS § 160A-61.

c. All members of the Commission shall serve a term of three years, except the City Council shall appoint members to the Commission to fill vacancies occuring for reasons other than expiration of

terms for the period of the the unexpired term only. The City Council may reappoint members to successive terms, in accordance with City Council policies for Board and Commission appointments.

d. Members of the Commission shall be compensated per diem, based upon meetings actually attended and reasonable and necessary expenses, as determined by the City Council.

e. The City Council may remove any member of the Commission for just cause, as may be permitted by law. The City Council shall provide the member with a public hearing if requested.

(3) OFFICERS, SECRETARY, AND STAFF

a. At an annual organizational meeting, the Planning and Zoning Commission shall elect one of its members as chair and one as vice-chair.

b. The Planning Director shall appoint a recording secretary to serve the Commission. The secretary shall serve as clerk to the Commission and shall keep minutes to summarize all proceedings, attested to by a majority of the members of the commission voting. In addition, the secretary shall maintain all records of Commission meetings, hearings, and proceedings, as well as the correspondence of the Commission, and is authorized to administer oaths at quasi-judicial hearings before the Commission.

c. The Planning Director shall serve as professional staff for the Commission.

(4) RULES OF PROCEDURE

The Commission shall adopt rules of procedure governing its procedures and operations. The rules shall be maintained by the Planning Director and shall be made available on the City's web site. Copies of the rules shall also be made available for public inspection in the Planning Department.

(5) MEETINGS

a. The Commission shall establish a regular meeting schedule by rule. Special meetings may be requested by the City Council, the chair of the Commission, a majority of the members of the Commission, or the Planning Director.

b. All regular meetings of the Commission shall be open to the public in accordance with state law.

c. The chair of the Commision shall conduct all meetings in accordance with the Commission's rules of procedure. In the absence of the chair, the vice-chair shall act as chair and shall have all powers of the chair. In the absence of both, the Commission shall elect a temporary chair to conduct the meeting. The chair shall be in charge of all proceedings before the commission and take such action necessary to preserve the order and integrity of all proceedings before the Commission. The chair or the recording secretary shall administer oaths.

d. No business may be transacted by the Commission without a quorum consisting of a majority of the appointed membership of the Commission. The chair of the Commission shall be counted for purposes of establishing a quorum and shall act as a voting member. All actions of the Commission shall require the concurring vote of a majority of the members of the Commission unless a more stringent voting standard is prescribed in this Ordinance.

e. If a matter is postponed due to lack of a quorum, the chair of the Commission shall continue the matter to the next Commission meeting. The recording secretary shall notify all members and all appropriate parties of the date of the meeting to which the matter was continued.

(6) CONFLICT OF INTEREST

a. A member of the Planning and Zoning Commission shall not vote on any advisory or legislative decision where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

b. In quasi-judicial matters, no member of the Planning and Zoning Commission may participate in or vote on any matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conduct includes, but is not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. Upon objection raised to a member's participation, the remaining members of the Planning and Zoning Commission shall rule on the objection by majority vote.

C. BOARD OF ADJUSTMENT

The Board of Adjustment of the City of Kannapolis is hereby established in accordance with state law.

(1) POWERS AND DUTIES

The Board of Adjustment shall have the following powers and duties:

a. To review and make decisions on the following:

1. Special use permits (Section 2.5.A(5));

2. Zoning variances (Section 2.5.D(1));

3. Certificates of nonconformity adjustment (Section 2.5.E(4)).

b. To hear and decide appeals of decisions on the following:

1. Site plans (Section 2.5.B(1));

2. Minor subdivision preliminary plats (Section 2.5.B(2)c);

3. Minor subdivision final plats (Section 2.5.B(2)d);

4. Major subdivision final plats (Section 2.5.B(3)e);

5. Zoning clearance permits (Section 2.5.C(1));

6. Certificates of compliance (Section 2.5.C(2));

7. Grading permits (Section 2.5.C(7));

8. Stormwater management permits ();

9. Tree removal permits (Section 2.5.C(3));

10. Temporary use permits (Section 2.5.C(4));

11. Home occupation permits (Section 2.5.C(5));

12. Sign permits (Section 2.5.C(6));

13. Floodplain development permits (Section 2.5.C(7));

14. Administrative adjustments (Section 2.5.D(3)); and

15. Interpretations (Section 2.5.E(1)).

(2) MEMBERSHIP, APPOINTMENT, AND TERMS

a. The Board of Adjustment shall consist of seven regular members and two alternate members appointed by the City Council.. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the board and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member.

b. All members of the Board shall serve a term of three years, except the City Council shall appoint members to the Board to fill vacancies occuring for reasons other than expiration of terms for the period of the the unexpired term only. The City Council may reappoint members to successive terms without limitation.

c. Before serving on the Board of Adjustment, each member shall take the oath of office in accordance with NCGS § 160A-61.

d. Members may be compensated per diem, based upon meetings actually attended and reasonable and necessary expenses, as determined by the appointing Council or by intergovernmental agreement.

e. The City Council may remove any member of the Board of Adjustment for just cause, as may be permitted by law. The City Council shall provide the member with a public hearing, if requested.

(3) OFFICERS, SECRETARY, AND STAFF

a. At an annual organizational meeting, the Board of Adjustment shall elect one of its members as chair and one as vice-chair.

b. The Planning Director shall appoint a recording secretary to serve the Board of Adjustment. The secretary shall serve as clerk to the Board and shall keep minutes to summarize all proceedings, all attested to by a majority of the members of the Board voting. The secreatary shall also maintain all records of Board meetings, hearings, and proceedings, as well as the correspondence of the Board of Adjustment, and is authorized to administer oaths at quasi-judicial proceedings before the Board.

c. The Planning Director shall serve as professional staff for the Board of Adjustment.

(4) RULES OF PROCEDURE

The Board of Adjustment shall adopt all rules and procedures for the conduct of its business, consistent with state law. The rules shall be maintained by the Planning Director and shall be made available on the City's website.

(5) MEETINGS

a. The chair of the Board shall conduct all meetings in accordance with the Boards's rules and procedures. In the absence of the chair, the vice-chair shall act as chair and shall have all powers of the chair. In the absence of both, the Board shall elect a temporary chair to conduct the meeting. The chair shall be in charge of all proceedings before the Board and take such action necessary to preserve the order and integrity of all proceedings before the Board. The chair or the recording secretary shall administer oaths.

b. The Board of Adjustment shall follow quasi-judicial procedures when deciding appeals or applications for zoning variances or special use permits.

c. No member may participate in or vote on any matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conduct includes, but is not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change; undisclosed ex parte communications; a close familial, business, or other associational relationship with an affected person; or a financial interest in the outcome of the matter. Upon objection raised to a member's participation, the remaining members of the Board of Adjustment shall rule on the objection by majority vote.

d. Minutes of the proceedings of the Board of Adjustment showing the vote of each member and records of its examinations and other official actions shall be filed in the Planning Department for public record.

D. PLANNING DIRECTOR

(1) GENERAL

a. The Planning Director is authorized to perform the planning functions for the City and provide technical support and guidance for action on all plan and ordinance amendments and on applications for development approval. The Planning Director is authorized to perform other functions as may be requested by the City Council or authorized by this Ordinance.

b. The Planning Director may delegate any decision or review authority to any professional level staff in the Planning Department and may delegate clerical authority to any staff in the Planning Department.

(2) POWERS AND DUTIES

The Planning Director shall have the following powers and duties under this Ordinance:

a. To review and make decisions on the following:

1. Site plans (Section 2.5.B(1));

2. Minor subdivision preliminary plats (Section 2.5.B(2)c);

3. Minor subdivision final plats (Section 2.5.B(2)d);

4. Major subdivision preliminary plats (Section 2.5.B(3)c);

5. Major subdivision final plats (Section 2.5.B(3)e);

6. Exempt subdivision determinations (Section 2.5.B(4));

7. Zoning clearance permits (Section 2.5.C(1));

8. Certificates of compliance (Section 2.5.C(2));

9. Grading permits (Section 2.5.C(7));

10. Tree removal permits (Section 2.5.C(3));

11. Temporary use permits (Section 2.5.C(4));

12. Home occupation permits (Section 2.5.C(5));

13. Sign permits (Section 2.5.C(6));

14. Floodplain development permits (Section 2.5.C(7));

15. Administrative Adjustments (Section 2.5.D(3)); and

16. Interpretations Section 2.5.E(1)) of the provisions of this Ordinance, except the provisions in Section 5.10, Stormwater Management Standards;

b. To review and prepare a staff report on the the following:

1. Zoning text amendments (Section 2.5.A(1));

2. Zoning map amendments (Section 2.5.A(2));

3. Conditional zonings (Section 2.5.A(3));

4. Planned developments (Section 2.5.A(4));

5. Special use permits (Section 2.5.A(5));

6. Major subdivision preliminary plats (Section 2.5.B(3)c);

7. Density Averaging Certificates (Section 2.5.E(2));

8. Special Intensity Allocations (Section 2.5.E(3)); and

9. Certificates of nonconformity adjustment (Section 2.5.E(4));

c. To perform all duties assigned to the Planning Director in Section 3.8.D, Floodplain Protection Overlay (FPO) District;

d. To establish application content requirements and a submission schedule for review of applications and appeals;

e. To maintain the Zoning Map and related materials;

f. To serve as professional staff to the Planning and Zoning Commission and the Board of Adjustment;

g. To provide expertise and technical assistance to the City's review and decision-making bodies, upon request;

h. To enforce this Ordinance in accordance with Article 8. Enforcement; and

i. To carry out any other activities necessary for the administration of this Ordinance that are not within the powers and duties of other bodies or officials.

(3) CONFLICT OF INTEREST

a. No staff member shall make a final decision in the implementation, administration, or enforcement of this Ordinance that involves the determination of facts and the application of objective standards if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member, or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member is prohibited from making a final decision by this section, the staff member's direct supervisor or other City employee designated by the City Manager shall make the final decision.

b. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the City to provide staff support shall engage in any work that is inconsistent with their duties or with the interest of the City.

E. DIRECTOR OF ENGINEERING

(1) GENERAL

The Director of Engineering may designate any decision or review authority under this Ordinance to any professional level staff in the Engineering Department.

(2) POWERS AND DUTIES

The Director of Engineering shall have the following powers and duties under this Ordinance:

a. To provide staff review on the following:

1. Minor subdivision preliminary plats (Section 2.5.B(2)c); and

2. Minor subdivision final plats (Section 2.5.B(2)d);

b. To review and make a decision on the following:

1. Major subdivision construction plans (Section 2.5.B(3)d);

2. Erosion control permits (Section 2.5.C(8));

3. Stormwater management permits (Section 2.5.C(10));

4. Interpretations (Section 2.5.E(1)) of provisions in Section 5.10, Stormwater Management Standards; and

5. Driveway permit applications; and

c. To compile and maintain a Land Development Standards Manual.

(3) CONFLICT OF INTEREST

See subsection D(3) above.

F. TECHNICAL REVIEW COMMITTEE (TRC)

The Technical Review Committee (TRC) is hereby established in accordance with state law.

(1) POWERS AND DUTIES

The TRC shall review all major preliminary subdivision plat applications (Section 2.5.B(3)c) and development applications as the Planning Director determines necessary and provide comments to the Planning Director on each such application.

(2) MEMBERSHIP

The TRC shall consist of representatives from City departments and other agencies involved in subdivision review.

(3) CHAIR

The Planning Director shall serve as chair of the TRC and shall schedule and conduct TRC meetings, coordinate TRC activities, prepare TRC reports, and serve as the liaison to the departments and agencies involved in TRC review.

SECTION 2.4. STANDARD APPLICATION REQUIREMENTS AND PROCEDURES

A. GENERAL

This section sets forth the standard procedures that are generally required for development applications reviewed under this Ordinance. Not all procedures in this section are required for every type of development application. Section 2.5, Application-Specific Review Procedures and Standards, identifies, for each specific type of development application, which standard procedures are required and any additions or modifications to the required standard procedures that apply. Table 2.4.A: Summary Table of Standard Procedures, summarizes which standard procedures apply to each type of development application, and which are modified in application-specific review procedures.

Table 2.4.A: Summary Table of Standard Procedures

✓ = Required; * = Application-Specific Review Procedures Modify Standard Procedures

	1 Neighborhood Meeting	2 Pre-Application Conference	3 Application Submission	4 Staff Review and Action	5 Public Hearing Scheduling and Notification	6 Advisory Body Action	7 Decision-Making Body Action	8 Post-Decision Limitations and Actions
Discretionary Review								
Text Amendment		✓*	✓*	✓	✓	✓*	✓*	✓
Zoning Map Amendment	✓*	✓*	✓*	✓	✓		✓*	✓*
Conditional Zoning	✓	✓	✓*	✓	✓		✓*	✓*
Planned Development	✓	✓	✓*	✓	✓	✓	✓*	✓*
Special Use Permit		✓	✓*	✓	✓		✓	✓*
Site Plan and Subdivision								
Site Plan		✓	✓	✓				✓
Minor Subdivision								
Preliminary Plat			✓	✓				✓*
Final Plat			✓	✓				✓*
Major Subdivision								
Preliminary Plat			✓	✓				✓*
Construction Plans			✓*	✓				✓*
Final Plat			✓	✓				✓*
Exempt Subdivision Determination			✓	✓				
Permits								
Zoning Clearance Permit			✓*	✓				✓
Certificate of Compliance			✓*	✓				✓*

Table 2.4.A: Summary Table of Standard Procedures

✓ = Required; * = Application-Specific Review Procedures Modify Standard Procedures

	1 Neighborhood Meeting	2 Pre-Application Conference	3 Application Submission	4 Staff Review and Action	5 Public Hearing Scheduling and Notification	6 Advisory Body Action	7 Decision-Making Body Action	8 Post-Decision Limitations and Actions
Tree Removal Permit			✓	✓				✓
Temporary Use Permit			✓	✓*				✓*
Home Occupation Permit			✓	✓				✓*
Sign Permit			✓*	✓				✓
Grading Permit			✓*	✓				✓
Erosion Control Permit			✓	✓				✓
Floodplain Development Permit			✓*	✓*				✓*
Stormwater Management Permit			✓*	✓				✓*
Relief								
Variance – Zoning			✓		✓		✓*	✓
Variance – Watershed Protection			✓		✓*		✓*	✓
Administrative Adjustment			✓	✓				✓
Appeal of Administrative Decision					✓		✓*	✓*
Other Procedures								
Interpretation			✓*	✓*				✓*
Density Averaging Certificate			✓	✓			✓	✓*
Special Intensity Allocation			✓	✓			✓	✓*
Certificate of Nonconformity Adjustment			✓	✓	✓		✓	✓

B. NEIGHBORHOOD MEETING

(1) PURPOSE

The purpose of the neighborhood meeting is to educate owners and residents of nearby lands about a proposed application that is reviewed under this Ordinance, and to provide the applicant an opportunity to hear comments and concerns about the proposal and resolve conflicts and outstanding issues where possible, before formally submitting an application. A neighborhood meeting serves as an opportunity for informal communication between the applicant and owners and residents of nearby land, and other residents affected by a development proposal.

(2) APPLICABILITY

a. NEIGHBORHOOD MEETING REQUIRED

A neighborhood meeting is required before submission of applications for the following:

1. Zoning map amendments (Section 2.5.A(2)), if lands are proposed to be zoned to a district that allows greater intensity or density of development;

2. Conditional zonings (Section 2.5.A(3)); and

3. Planned developments (Section 2.5.A(4)).

b. NEIGHBORHOOD MEETING OPTIONAL

A neighborhood meeting may also be held at the applicant's option before the submission of any development application not identified in subsection a above.

(3) NEIGHBORHOOD MEETING PROCEDURE

If a neighborhood meeting is conducted, it shall comply with the following requirements.

a. MEETING AND TIME LOCATION

The meeting shall be held at a place that is convenient and accessible to neighbors residing in close proximity to the land subject to the application. It shall be scheduled after 6:00 P.M on a weekday. It shall be completed before the application is submitted.

b. NOTIFICATION

1. Mailed Notice

The applicant shall mail notice of the meeting a minimum of seven days in advance of the meeting, in a form and manner established by the LDSM, to:

(a) The Planning Director;

(b) The owner of land subject to the application (if different from the applicant); and

(c) Any persons to whom mailed notice of a public hearing on the application is required by Section 2.4.B(3)b.1, Mailed Notice.

2. Notice Content

The mailed and posted notices shall state the time and place of the meeting, the purpose of the meeting, include a basic map identifying the land associated with the development, summarize the general nature of the development proposal, and the type of development approval or permit sought.

3. Social Media Optional

The applicant may post notice of the pre-application neighborhood meeting on appropriate and relevant social media pages, such as Facebook, Twitter, and Instagram.

4. City Website Optional

The City may post notice of the pre-application neighborhood meeting on the City's website.

c. CONDUCT OF MEETING

The meeting shall be open to the public. At the meeting, the applicant shall explain the development proposal and application, inform attendees about the application review process, respond to questions and concerns attendees raise about the proposed application, and discuss ways to resolve conflicts or concerns.

d. WRITTEN SUMMARY OF MEETING

After conclusion of the neighborhood meeting, the applicant shall prepare a written summary of the meeting that includes a list of meeting attendees, a summary of attendee comments and issues discussed related to the development proposal, and any other information the applicant deems appropriate. The meeting summary shall be included with the application materials and be made available to the public for inspection in accordance with Section 2.4.D(6), Examination and Copying of Application/Other Documents.

e. RESPONSE TO SUMMARY

Any person attending the neighborhood meeting may submit a written response to the applicant's meeting summary to the Planning Director after the application is submitted. The response may state that person's understanding of attendee comments, discuss issues related to the development proposal, and include any other information deemed appropriate. All written responses to the applicant's summary of the neighborhood meeting shall be included with the application materials, and made available for public inspection in accordance with Section 2.4.D(6), Examination and Copying of Application/Other Documents.

C. PRE-APPLICATION CONFERENCE

(1) PURPOSE

The purpose of a pre-application conference is to provide an opportunity for the applicant to determine the submission requirements and the procedures and standards applicable to an anticipated application. A pre-application conference is also intended to provide an opportunity for Planning Department staff to become familiar with, and offer the applicant preliminary comments about the scope, features, and impacts of the proposed development as it relates to the standards and procedural requirements in this Ordinance.

(2) APPLICABILITY

a. A pre-application conference is required before the submission of an application for any of the following:

1. Zoning text amendments (Section 2.5.A(1));

2. Zoning map amendments (Section 2.5.A(2));

3. Conditional zonings (Section 2.5.A(3));

4. Planned developments (Section 2.5.A(4));

5. Special use permits (Section 2.5.A(5)); and

6. Site plans (Section 2.5.B(1)) for development involving Commercial uses having a gross floor area of 50,000 or more square feet.

b. A pre-application conference may be held at the option of the applicant before the submission of any other application.

(3) PROCEDURE

a. SUBMISSION OF MATERIALS PRIOR TO CONFERENCE

Before a pre-application conference is held, the applicant shall submit to the Planning Director a narrative describing the scope of the proposed development, a conceptual plan, and any other information the Planning Director determines is appropriate.

b. SCHEDULING

Upon receipt of the request for a pre-application conference, the Planning Director shall schedule the pre-application conference and notify the applicant of the conference time and location.

c. CONFERENCE PROCEDINGS

The Planning Director and any other appropriate City staff shall review the materials submitted by the applicant prior to the conference. At the conference, the Planning Director and any other appropriate City staff shall seek any needed clarification from the applicant regarding the proposed application, respond to any applicant questions, and identify for the applicant any concerns, problems, or other factors the applicant should consider regarding the proposed application.

(4) EFFECT OF CONFERENCE

The pre-application conference is intended as a means of facilitating the application review process. Discussions held in accordance with this section are not binding on the City. Processing times for review of development applications do not begin until an application is submitted and determined to be complete in accordance with Section 2.4.D(3), Determination of Application Completeness.

D. APPLICATION SUBMISSION

Applications shall be submitted, and may be amended or withdrawn, in accordance with the requirements of this section.

(1) AUTHORITY TO FILE APPLICATIONS

a. GENERAL

Applications submitted under this Ordinance in accordance with this section shall be submitted by the landowner, a lessee, a person holding an option or contract to purchase or lease land, the landowner's authorized agent, or an easement holder if the requested development is authorized by the easement.

b. APPLICANT NOT THE OWNER

If the applicant is not the owner of the land or if the applicant is a contract purchaser of the land, a letter signed by the owner consenting to the submission of the application shall be submitted with the application.

c. APPLICANT NOT THE SOLE OWNER

If the applicant is not the sole owner of the land, a letter signed by the other owners, or an entity representing the owners, consenting to or joining in the application shall be submitted with the application.

(2) APPLICATION REQUIREMENTS

a. All applications shall be submitted to the Planning Department.

b. The application contents and forms shall be in accordance with requirements established in the LDSM.

c. The applicant shall submit a Traffic Impact Analysis with the application, if required in accordance with Section 5.13, Traffic Impact Analysis (TIA).

d. Required fees shall be those established for the specific application by the City Council, which shall be identified in the Fee Schedule.

e. The schedule for application submission and review, including time frames for review, shall be established for each specific application type by the Planning Director, in accordance with state law, and shall be included in the LDSM.

(3) DETERMINATION OF APPLICATION COMPLETENESS

a. APPLICATION COMPLETENESS

Within ten business days of receipt of the application, the Planning Director shall determine whether the application is complete. A complete application is one that:

1. Contains all contents and is in the form required for the particular type of application in accordance with Section 2.4.D(2), Application Requirements.

2. Includes information in sufficient detail to evaluate the application to determine whether it complies with the appropriate review standards of this Ordinance.

3. Is accompanied by the fee established for the particular type of application in accordance with Section 2.4.D(2), Application Requirements.

b. APPLICATION INCOMPLETE

1. If it is determined the application is incomplete, the Planning Director shall send notice by mail or electronically to the applicant of the deficiencies, and review of the application shall not proceed. The applicant may correct the deficiencies and resubmit the application for completeness determination.

2. If the applicant fails to resubmit an incomplete application within 45 days after being notified of submittal deficiencies, the application shall be considered withdrawn.

3. Notwithstanding the other provisions of this subsection, after an application is determined to be incomplete three times, the applicant may request, and the Planning Director shall undertake, processing and review of the application.

c. APPLICATION COMPLETE

If the application is determined to be complete, it shall be reviewed in accordance with the procedures and standards of this Ordinance. Any established time frame for review of the application shall start on the date the application is determined to be complete.

(4) APPLICATION AMENDMENT OR WITHDRAWAL

a. APPLICANT AMENDMENT

1. An applicant may revise an application after receiving initial staff review comments on the application, or upon requesting and receiving permission from an advisory or decision-making body after that body has reviewed but not yet taken action on the application. Revisions shall be submitted to the Planning Director, and shall be limited to changes that directly respond to specific requests or suggestions made by staff, or the advisory or decision-making body, as applicable, as long as such requests or suggestions constitute only minor additions, deletions, or corrections and do not include significant substantive changes to the development proposed in the application.

2. Any other revisions to the application may be submitted as a revised application at any time during the review procedure to the Planning Director, in accordance with Section 2.4.D(2) above. The revised application shall be reviewed as if it were a new application. The revised application submittal may be subject to additional application fees to defray the additional costs of processing the revised application.

b. APPLICATION WITHDRAWAL

1. An applicant may withdraw an application by submitting a letter of withdrawal to the Planning Director or through a verbal or written request at a required public hearing.

2. If a request for withdrawal is submitted after notice of a public hearing, withdrawal shall be approved by the Planning and Zoning Commission or the City Council.

3. If an applicant requests or causes continuing postponement of submissions or actions required to complete the application review process, and such postponement causes inaction for six or more months in the review of the application, the application will be considered withdrawn by the applicant, and the Planning Director shall notify the applicant in writing.

4. If an application is withdrawn by the applicant, no further review of the application shall take place unless or until a new application (including new application fees) is submitted and determined to be complete.

   (a) If an application is withdrawn, except as provided in subsection (b) below, no application proposing substantially the same development on all or part of the same land shall be accepted by the City within 180 days after the date of withdrawal.

   (b) If an application requiring a public hearing is withdrawn at a required public hearing, no application proposing substantially the same development on all or part of the same land shall be accepted by the City within one year after the date of withdrawal.

5. Application fees shall not be refunded for withdrawn applications.

(5) SIMULTANEOUS PROCESSING OF APPLICATIONS

Whenever two or more forms of review and approval are required under this Ordinance, the applications for the required development approvals or permits may, at the discretion of the Planning Director, be processed simultaneously, so long as all applicable local and state requirements are satisfied. Simultaneous processing of applications may result in additional fees to the applicant.

(6) EXAMINATION AND COPYING OF APPLICATION/OTHER DOCUMENTS

At any time, upon reasonable request and during normal business hours, any person may examine a development application, a finalized staff report, and materials submitted in support of, or in opposition to, an application submitted to the Planning Department. Copies of such materials shall be made available at reasonable cost.

E. STAFF REVIEW AND ACTION

(1) STAFF REVIEW AND OPPORTUNITY TO REVISE APPLICATION

a. If the application is determined to be complete, the Planning Director shall distribute it to all appropriate City staff and other review agencies for review and comment.

b. The Planning Director shall review the application, relevant support material, and any comments or recommendations from City staff or review agencies to which the application was referred. If deficiencies in complying with applicable standards of this Ordinance are identified, the Planning Director shall notify the applicant of such deficiencies and provide the applicant a reasonable opportunity to discuss the deficiencies and revise the application to address them, in accordance with Section 2.4.D(4)a, Applicant Amendment.

c. If staff review is required in accordance with Table 2.2: Summary Table of Development Review Responsibilities, the Planning Director shall prepare a written staff report which assesses whether a development proposal is consistent with the requirements of the KDO.

(2) APPLICATION SUBJECT TO DECISION BY DECISION-MAKING BODY

If the application is subject to review by an advisory or decision-making body in accordance with Table 2.2: Summary Table of Development Review Responsibilities, the Planning Director shall Transmit the application to all advisory and decision-making bodies that review the application in accordance with Table 2.2: Summary Table of Development Review Responsibilities.

(3) APPLICATION SUBJECT TO DECISION BY PLANNING DIRECTOR OR DIRECTOR OF ENGINEERING

a. DECISION

If the Planning Director or Director of Engineering is authorized to make a decision on the application in accordance with Table 2.2: Summary Table of Development Review Responsibilities, the Planning Director or Director of Engineering, as applicable, shall, following completion of staff review, make one of the decisions authorized for the particular type of application based on the review standards for the application set forth in Section 2.5, Application-Specific Review Procedures and Standards. The decision shall be in writing and shall state the reasons for denial if the application is denied, or the conditions of approval of the application is approved subject to conditions of approval.

b. CONDITIONS OF APPROVAL

If permitted for the particular type of application in accordance with Section 2.5, Application-Specific Review Procedures and Standards, approval of an application may be subject to conditions of approval. Conditions of approval shall be limited to conditions deemed necessary to ensure compliance with the requirements and particular standards of this Ordinance and shall relate in both type and extent to the anticipated impacts of the proposed development.

F. PUBLIC HEARING SCHEDULING AND NOTIFICATION

(1) PUBLIC HEARING SCHEDULING

a. If an application is subject to a public hearing in accordance with Table 2.2: Summary Table of Development Review Responsibilities, the Planning Director shall ensure that the hearing on the application is scheduled for a regularly scheduled meeting of the body conducting the hearing or a meeting specially called for that purpose by such body.

b. The hearing on the application shall be scheduled so there is sufficient time for public notification required by this Ordinance and state law.

(2) PUBLIC NOTIFICATION

Notification of a public hearing on an application shall be as required by state law and as shown in Table 2.4.F(2): Summary of Public Notification Requirements.

Table 2.4.F(2): Summary of Public Notification Requirements

Application Type	Notice Required		
	Published	Mailed	Posted
Discretionary Approvals			
Text Amendment	Required	None	None

Table 2.4.F(2): Summary of Public Notification Requirements

Application Type	Notice Required		
	Published	Mailed	Posted
Zoning Map Amendment Conditional Zoning Planned Development	Required	Required	Required
Special Use Permit	None	Required	Required
Relief			
Variance – Zoning Variance – Watershed Protection Exception from Subdivision Ordinance Appeal from Administrative Decision Certificate of Nonconformity Adjustment	None	Required	Required

a. MAILED NOTICE REQUIREMENTS

If mailed notice required in accordance with Table 2.4.F(2): Summary of Public Notification Requirements, the Planning Director shall send notice by first class mail at least 10 but not more than 25 days before the date of the public hearing to the following owners of property as shown on the county tax listing:

1. The properties subject to the proposed action;
2. All parcels of land abutting the subject properties, (including land separated by an alley, street, railroad, or other transportation corridor); and
3. All parcels of land within 200 feet of the boundaries of the subject properties.

b. PUBLISHED NOTICE REQUIREMENTS

If published notice is required in accordance with Table 2.4.F(2): Summary of Public Notification Requirements, notice shall be published in a newspaper having general circulation in the City once a week, for two successive calendar weeks, in accordance with state law. The first notice shall be published not less than ten days nor more than 25 days prior to the date fixed for the hearing. In computing the required time period, the day the notice is published shall not be included, but the day of the hearing shall be included.

c. REQUIRED CONTENT OF NOTICE

All mailed and published notices for public hearings shall:

1. Identify the date, time, and place of the public hearing;
2. Describe the land subject to the proposed action by street address or by its relationship to a fronting street and the nearest cross-street (if applicable), and its size; and
3. Describe the nature and scope of the proposed development or action.

d. POSTED NOTICE REQUIREMENTS

1. If posted notice is required in accordance with Table 2.4.F(2): Summary of Public Notification Requirements, the Planning Director shall post a notice of the hearing on the subject property, or on

an adjacent public street or highway right-of-way, at least 10 but not more than 25 days before the date of the public hearing. The notice shall include the following:

(a) The case number of the application;

(b) A phone number to contact the Planning Department during business hours for additional information; and

(c) Any other content necessary to comply with state law.

2. If multiple parcels are involved in the application, a posting on each individual parcel is not required if the Planning Director posts sufficient notices to provide reasonable notice to interested persons.

(3) DEFERRAL OF PUBLIC HEARING

a. BEFORE PUBLIC HEARING NOTICE

If an application is subject to a public hearing and required notice of the hearing has not yet been provided, the applicant may submit a written request to the Planning Director to defer the public hearing. The Planning Director may grant the request to defer consideration of the application for good cause.

b. AFTER PUBLIC HEARING NOTICE

If an application is subject to a public hearing and required notice of the hearing has already been provided, the applicant may request that the hearing be deferred by submitting a written request for deferral to the body scheduled to hold the hearing. On receiving such a request, the body may grant the request for good cause, or if finding no good cause for deferral, may proceed to hold the hearing. If the body grants the request for deferral, it shall concurrently set a new hearing date for the application. If a deferral is granted, the application may be subject to additional application fees to defray the additional costs of processing the application.

G. ADVISORY BODY ACTION

If an application is subject to a recommendation by the Planning and Zoning Commission (See Table 2.2: Summary Table of Development Review Responsibilities), the Planning and Zoning Commission shall review and act on the application in accordance with the following procedures:

(1) The Planning and Zoning Commission shall hold any required public hearing (see Table 2.2: Summary Table of Development Review Responsibilities) in accordance with state law and the Commission's rules of procedure, and shall consider the application, relevant support materials, the staff report, and any public comments. The Commission shall then recommend one of the decisions authorized for the particular type of application, based on the review standards applicable to the application type, as set forth in Section 2.5, Application-Specific Review Procedures and Standards. The Commission's recommendation shall state the basis or rationale for the recommendation.

(2) If permitted for the particular type of application in accordance with Section 2.5, Application-Specific Review Procedures and Standards, the Commission may recommend conditions of approval. Conditions of approval must relate in both type and extent to the anticipated impacts of the proposed development.

(3) The Planning and Zoning Commission shall act as promptly as possible in consideration of the interests of the applicant, affected parties, and the residents and owners of land in the City.

H. DECISION-MAKING BODY ACTION

If an application is subject to a final decision by the City Council, the Planning and Zoning Commission, or the Board of Adjustment, the relevant decision-making body shall review and decide the application in accordance with the following procedures:

(1) REVIEW AND DECISION

a. GENERAL

The decision-making body shall hold any required public hearing on the application (see Table 2.2: Summary Table of Development Review Responsibilities) in accordance with state law and the body's rules of procedure. At the hearing, the decision-making body shall consider the application, relevant support materials, any advisory body recommendations, and any public comments. It shall then make one of the decisions authorized for the particular type of application, based on the review standards applicable to the application type, as set forth in Section 2.5, Application-Specific Review Procedures and Standards.

1. Statement of Basis

The decision-making body shall clearly state the basis or rationale for the decision.

2. Timing

The decision-making body shall take action as promptly as reasonably possible in consideration of the interests of the applicant, affected parties, and the residents and owners of land in the City.

b. CONDITIONS OF APPROVAL

If permitted for the particular type of application in accordance with Section 2.5, Application-Specific Review Procedures and Standards, approval of an application may be subject to conditions of approval. Conditions of approval must relate in both type and extent to the anticipated impacts of the proposed development.

I. POST-DECISION LIMITATIONS AND ACTIONS

(1) NOTIFICATION OF DECISION

After a decision has been rendered on an application, the Administrator shall send written notice of the decision to the owner of the property that is the subject of the application and to the applicant, if different from the owner. The notice shall be sent by personal delivery, electronic mail, or first-class mail, to be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application if the applicant is different from the owner.

(2) EFFECT OF APPROVAL

Approval of a development application in accordance with this Ordinance authorizes only the particular use, plan, or other specific activity approved, and not any other development requiring separate application and approval. In the event that one development approval or permit is a prerequisite to another development approval or permit, development may not take place until all required approvals or permits are obtained. Approval of one development application does not necessarily guarantee approval of any subsequent development application.

(3) APPEAL OF DECISION

a. Unless otherwise addressed in Section 2.5, Application-Specific Review Procedures and Standards, an administrative decision may be appealed in accordance with the procedures and standards in Section 2.5.D(4), Appeal of Administrative Decision.

b. A party aggrieved or adversely affected by any decision for which no further administrative review procedure is provided by this Ordinance may seek review of the decision in the courts in accordance with applicable State law.

(4) EXPIRATION

a. Subject to any vested rights and unless otherwise provided in this Ordinance or in state law, development approvals and permits approved set forth in this Ordinance shall automatically expire and become invalid within one year after the date of issuance unless work has substantially commenced in accordace with the development approval or permit.

b. A development approval or permit shall automatically expire at the end of any time period identified in a condition of approval for compliance with the condition, if full compliance with the condition has not occurred, or, if no period of time is identified, one year after the date of approval if full compliance with the condition has not occurred.

c. A change in ownership of the land that is the subject of a development approval or permit shall not affect the established expiration time period for the development approval or permit.

(5) LIMITATION ON SUBSEQUENT APPLICATIONS

a. DISAPPROVED APPLICATIONS

1. If a development application requiring a public hearing is disapproved, an application proposing substantially the same development on all or part of the same land shall not be submitted within one year after the date of disapproval unless the decision-making body waives this time limit in accordance with subsection 2 below. Only one request for a waiver of this time limit may be submitted during the one-year period.

2. The owner of land that is the subject of an application that was disapproved as set out in subsection 1 above, or the owner's authorized agent, may submit a written request for waiver of the time limit established in subsection 1 above, along with a fee to defray the cost of processing the request, to the Planning Director, who shall transmit the request to the decision-making body. The decision-making body may grant a waiver of the time limit only on a finding by at least two-thirds of its membership of one or more of the following:

(a) There is a substantial change in circumstances relevant to the issues or facts considered during review of the application that might reasonably affect the application of the relevant review standards to the development proposed in the application;

(b) New or additional information is available that was not available at the time of review that might reasonably affect the application of the relevant review standards to the development proposed in the application;

(c) The new application proposed to be submitted is not substantially the same as the prior application; or

(d) The final decision on the application was based on a material mistake of fact.

b. WITHDRAWN APPLICATIONS

If an application is withdrawn by an applicant, subsequent applications are limited in accordance with Section 2.4.D(4)b, Application Withdrawal.

SECTION 2.5. APPLICATION-SPECIFIC REVIEW PROCEDURES AND STANDARDS

A. DISCRETIONARY REVIEW

(1) TEXT AMENDMENT

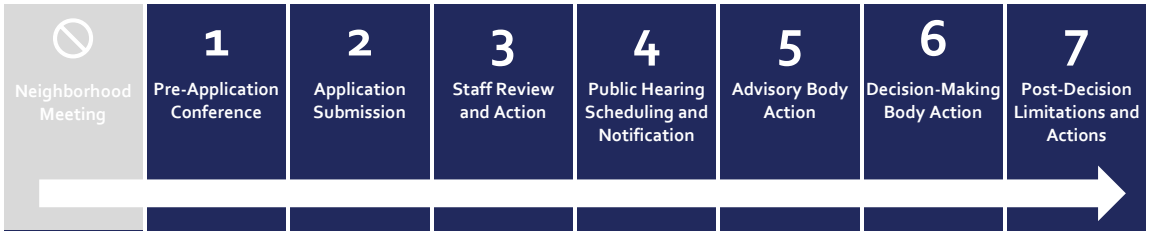
a. APPLICABILITY

The procedure in this section is required for any amendment of the text of this Ordinance, unless the amendment is part of a conditional zoning (see Section 2.5.A(3)), or a planned development (see Section 2.5.A(4)).

b. TEXT AMENDMENT PROCEDURE

Figure 2.5.A(1)b summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to text amendments. Subsections 1 through 7 below specify the required procedure for a text amendment, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.A(1)b: Summary of Text Amendment Procedure



1. **Pre-Application Conference**

   A pre-application conference is required in accordance with Section 2.4.C, except for applications submitted by City Council or the Planning and Zoning Commission.

2. **Application Submission**

   Applications shall be submitted in accordance with Section 2.4.D, except authorization to submit an application is given only to the City Council and the Planning and Zoning Commission, any City board, department, or commission, or any person owning land in the City or having a financial or other interest in land in the City.

3. **Staff Review and Action**

   The Planning Director shall review and make a recommendation on the application in accordance with Section 2.4.E.

4. **Scheduling of Public Hearing and Public Notification**

   The Planning Director shall schedule public hearings and provide public notification in accordance with Section 2.4.F.

5. **Planning and Zoning Commission Decision**

   The Planning and Zoning Commission shall consider the text amendment request and make a recommendation on the application in accordance with Section 2.4.G. The Planning Board's recommendation shall address whether the proposed amendment is consistent with the Comprehensive Plan and any other applicable plans and policies.

6. City Council Decision

(a) The City Council shall review and make a decision on the application in accordance with Section 2.4.H, Decision-Making Body Action, and Section 2.5.A(1)c, Text Amendment Review Standards. The City Council's decision shall be one of the following:

1. Adopt the text amendment as proposed;
2. Adopt a revised text amendment;
3. Deny the text amendment; or
4. Remand the text amendment application to the Planning and Zoning Commission for further consideration.

(b) Prior to deciding to adopt or deny a text amendment, the City Council shall adopt a statement in accordance with NCGS §§ 160D-604 and 160D-605 that:

1. Explains why the decision is reasonable and in the public interest; and
2. States that the amendment is either (i) consistent with the Comprehensive Plan, or (ii) inconsistent with the Comprehensive Plan

7. Post-Decision Limitations and Actions

The post-decision limitations and actions in Section 2.4.I apply.

c. TEXT AMENDMENT REVIEW STANDARDS

Amending the text of this Ordinance is a matter committed to the legislative discretion of the City Council. In determining whether to adopt or deny the proposed amendment, the City Council may consider and weigh the relevance of the following factors:

1. Whether and to what extent the proposed amendment is consistent with the Comprehensive Plan and other applicable adopted City plans;

2. Whether the proposed amendment is in conflict with any provision of this Ordinance or the City Code;

3. Whether and to what extent there are changed conditions that require an amendment;

4. Whether and to what extent the proposed amendment addresses a demonstrated community need;

5. Whether and to what extent the proposed amendment is consistent with the purpose and intent of the zoning districts in this Ordinance, or would improve compatibility among uses and ensure efficient development within the City;

6. Whether and to what extent the proposed amendment would result in a logical and orderly development pattern; and

7. Whether and to what extent the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

(2) ZONING MAP AMENDMENT

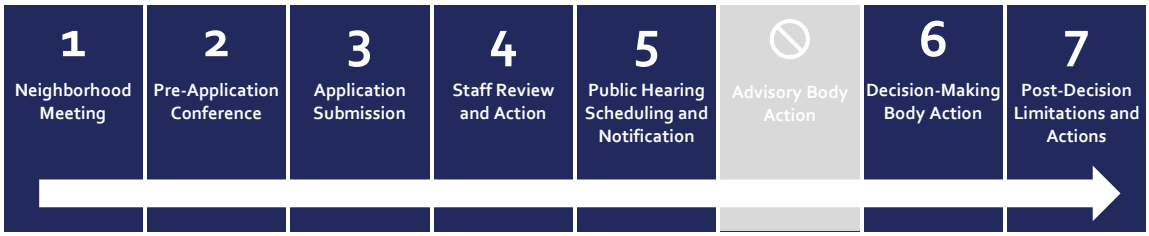
a. APPLICABILITY

The procedure in this section is required for any amendment of the Zoning Map, unless the amendment is part of a conditional zoning (see Section 2.5.A(3)), or a planned development (see Section 2.5.A(4)). No lands may be classified to a Legacy district (CD, CD-R, or C-1) from a district that is not a Legacy district.

b. ZONING MAP AMENDMENT PROCEDURE

Figure 2.5.A(2)b summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to Zoning Map amendments. Subsections 1 through 8 below specify the required procedure for a Zoning Map amendment, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.A(2)b: Summary of Zoning Map Amendment Procedure



1. Neighborhood Meeting

The applicant shall conduct a neighborhood meeting in accordance with Section 2.4.B if lands are proposed to be zoned to a district that allows greater intensity or density of development, except for applications submitted by City Council or the Planning and Zoning Commission.

2. Pre-Application Conference

A pre-application conference is required in accordance with Section 2.4.C, except for applications submitted by City Council or the Planning and Zoning Commission.

3. Application Submission

Applications shall be submitted in accordance with Section 2.4.D, except authorization to submit an application is extended to the City Council, the Planning and Zoning Commission, and any City board, department, or commission. An application not filed by the City that proposes down-zoning of property must be filed by one of the property owners that would be affected by the amendment and include the written consent of all property owners who would be impacted by the proposed amendment. The applicant shall submit a Traffic Impact Analysis with the application, if required in accordance with Section 5.13, Traffic Impact Analysis (TIA).

4. Staff Review and Action

The Planning Director shall review and make a recommendation on the application in accordance with Section 2.4.E.

5. Public Hearing Scheduling and Notification

The Planning Director shall schedule public hearings and provide public notification in accordance with Section 2.4.F.

6. Planning and Zoning Commission Action

(a) The Planning and Zoning Commission shall hold a public hearing on the application and make a decision on the application in accordance with Section 2.4.H, Decision-Making Body Action, and Section 2.5.A(2)c, Zoning Map Amendment Review Standards. The Planning Board's decision shall be one of the following:

1. Approve the application and adopt the Zoning Map amendment; or
2. Deny the application.

(b) Prior to making a decision to adopt or deny a Zoning Map amendment, the Planning and Zoning Commission, and, if applicable, the City Council shall adopt a statement in accordance with NCGS §§ 160D-604 and 160D-605 that:

1. Explains why the decision is reasonable and in the public interest; and

2. States that the amendment is either (i) consistent with the Comprehensive Plan, or (ii) inconsistent with the Comprehensive Plan and that the Future Land Use and Character Map in the Comprehensive Plan is therefore amended to be consistent with the adopted amendment.

(c) Conditions of approval are not allowed.

7. City Council Action

(a) If any of the following occurs, the City Council shall hold a public hearing and make a decision on the application in accordance with Section 2.4.H, Decision-Making Body Action, and Section 2.5.A(2)c, Zoning Map Amendment Review Standards:

1. The Planning Commission denies the application;

2. The Planning Commission approves the application by a vote of less than three-fourths of the members of the Commission; or

3. Any person aggrieved by the Planning and Zoning Commission's decision appeals the decision to the City Council by giving notice in writing to the Planning Director within 15 days of the decision.

(b) The City Council's decision shall be one of the following:

1. Approve the application and adopt the Zoning Map amendment; or

2. Deny the application.

(c) Prior to making a decision to adopt or deny a Zoning Map amendment, the City Council shall adopt a statement in accordance with subsection 6(b) above.

(d) Conditions of approval are not allowed.

8. Post-Decision Limitations and Actions

The post-decision limitations and actions in Section 2.4.I apply, in addition to the provisions in subsections (a) and (b) below.

(a) If the final decision on the application is to adopt the Zoning Map amendment, the Planning Director shall place the amendment on the Zoning Map within a reasonable period of time after the adoption of the amendment.

(b) If the final decision is to deny the application, Zoning Map amendment applications proposing the same zoning on all or a portion of the subject lands will not be considered within one year of the decision. This time limitation does not apply to Zoning Map amendment applications submitted by the City Council or the Planning and Zoning Commission. The Planning Commission may waive this time limitation if it finds there is new and different evidence that was not reasonably available at the time of the original hearing.

c. ZONING MAP AMENDMENT REVIEW STANDARDS

Amending the Zoning Map is a matter committed to the legislative discretion of the Planning and Zoning Commission or of the City Council, as authorized by this section. In determining whether to adopt or deny the proposed amendment, the Planning and Zoning Commission or the City Council, as applicable, may consider, and weigh the relevance of, whether and to what extent the proposed Zoning Map amendment:

1. Is consistent with the Comprehensive Plan and other applicable adopted City plans;

2. Is in conflict with any provision of this Ordinance or the City Code of Ordinances;

3. Corrects an error in the existing zoning present at the time it was adopted;

4. Allows uses that are compatible with existing and allowed uses on surrounding land and with the stability and character of any adjacent residential neighborhoods;

5. Would ensure efficient development within the City, taking into consideration the capacity and safety of the street network, the adequacy of public facilities, the suitability of the land for the uses allowed under the existing zoning, and other relevant considerations;

6. Would result in a logical and orderly development pattern, taking into consideration the size of the subject lands and the zoning and existing and proposed development on surrounding lands; and

7. Would result in significant adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

(3) CONDITIONAL ZONING

a. APPLICABILITY

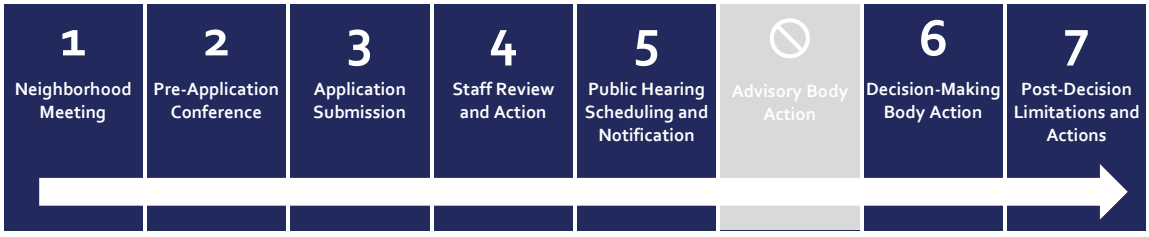
1. The procedure in this section is required for the establishment of a conditional zoning district. A landowner may apply for a conditional zoning in cases where the standards of a general use zoning district are inadequate to ensure that development allowed by the district will conform to the City's adopted plans or to appropriately address the impacts expected to be generated by development.

2. A conditional zoning approved in accordance with this section establishes a conditional zoning district that is equivalent to a corresponding general use zoning district, but is subject to additional conditions or restrictions that the applicant and City mutually agree to in order to ensure conformance to adopted plans and address expected development impacts.

b. CONDITIONAL ZONING PROCEDURE

Figure 2.5.A(3)b summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to conditional zoning applications. Subsections 1 through 8 below specify the required procedure for a conditional zoning, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.A(3)b: Summary of Conditional Zoning Procedure



1. **Neighborhood Meeting**

   The applicant shall conduct a neighborhood meeting in accordance with Section 2.4.B.

2. **Pre-Application Conference**

   A pre-application conference is required in accordance with Section 2.4.C.

3. **Application Submission**

   Applications shall be submitted in accordance with Section 2.4.D. The application shall include:

(a) A Traffic Impact Analysis, if required in accordance with Section 5.13, Traffic Impact Analysis (TIA);

(b) A conceptual development plan depicting the proposed development configuration that conforms to the application requirements for conditional zonings in the LDSM; and

(c) Any other conditions of approval proposed by the applicant.

4. Staff Review and Action

The Planning Director shall review and make a recommendation on the application in accordance with Section 2.4.E.

5. Scheduling of Public Hearing and Public Notification

The Planning Director shall schedule public hearings and provide public notification in accordance with Section 2.4.F.

6. Planning and Zoning Commission Action

(a) The Planning and Zoning Commission shall hold a public hearing and make a decision on the application in accordance with Section 2.4.H, Decision-Making Body Action, and Section 2.5.A(3)c, Conditional Zoning Review Standards. The Planning and Zoning Commission's decision shall be one of the following:

1. Approve the application, subject to conditions of approval, including a conceptual development plan; or

2. Deny the application.

(b) Prior to making a decision to adopt or deny a Conditional Zoning, the Planning and Zoning Commission, and, if applicable, the City Council shall adopt a statement in accordance with NCGS §§ 160D-604 and 160D-605 that:

1. Explains why the decision is reasonable and in the public interest; and

2. States that the conditional zoning is either (i) consistent with the Comprehensive Plan, or (ii) inconsistent with the Comprehensive Plan and that the Future Land Use and Character Map in the Comprehensive Plan is therefore amended to be consistent with the adopted amendment.

(c) Conditions of approval shall comply with the following requirements:

1. Only conditions of approval mutually agreed to by both the owner(s) of the land and the Planning and Zoning Commission are allowed.

2. Conditions of approval shall be limited to those that address the conformance of the development and use of the site to the KDO and to the Comprehensive Plan or other adopted City plans, and those that address the impacts reasonably expected to be generated by the development or use of the site.

3. Conditions may be in the form of text, plans, or maps.

4. Conditions that are less restrictive than the standards of the corresponding general use zoning district, applicable overlay district(s), or other standards of this Ordinance are not allowed.

7. City Council Action

(a) If any of the following occurs, the City Council shall hold a public hearing and make a decision on the application in accordance with Section 2.4.H, Decision-Making Body Action, and Section 2.5.A(3)c, Conditional Zoning Review Standards:

1. The Planning and Zoning Commission denies the application;

2. The Planning and Zoning Commission approves the application by a vote of less than three-fourths of the members of the Commission; or

3. Any person aggrieved by the Planning and Zoning Commission's decision appeals the decision to the City Council by giving notice in writing to the Planning Director within 15 days of the decision.

(b) The City Council's decision shall be one of the following:

1. Approve the application, subject to conditions of approval, including a conceptual development plan; or

2. Deny the application.

(c) Prior to making a decision to adopt or deny a Conditional Zoning, the City Council shall adopt a statement in accordance with subsection 6(b) above.

(d) Conditions of approval shall comply with the following requirements:

1. Only conditions of approval mutually agreed to by both the owner(s) of the land and the City Council are allowed.

2. Conditions of approval shall be limited to those that address the conformance of the development and use of the site to the KDO and to the Comprehensive Plan or other adopted City plans, and those that address the impacts reasonably expected to be generated by the development or use of the site.

3. Conditions may be in the form of text, plans, or maps.

4. Conditions that are less restrictive than the standards of the corresponding general use zoning district, applicable overlay district(s), or other standards of this Ordinance are not allowed.

5. The applicant shall submit a "statement of reasonableness" of the proposed rezoning.

8. Post-Decision Limitations and Actions

The post-decision limitations and actions in Section 2.4.I apply, in addition to the provisions in subsections (a) through (c) below.

(a) Placement on Zoning Map, Recordation

If the final decision on the application is to approve the conditional zoning, the Planning Director shall place the amendment on the Zoning Map within a reasonable period of time after the adoption of the amendment, and the applicant shall:

1. Record the ordinance approving the conditional zoning, including the approved conceptual development plan and conditions of approval, in the office of the register of deeds; and

2. Record a deed restriction upon the subject property that requires compliance with the conditions attached to the Conditional Zoning District ordinance. This deed restriction is perpetually binding on the property, unless the land is rezoned to another district.

(b) Effect of Approval

Lands rezoned to a conditional zoning district shall be subject to the standards applicable to the parallel general use zoning district, as modified by the more restrictive conditions agreed to by the applicant and imposed as conditions of approval by the Planning and Zoning Commission or the City Council, as applicable. These standards and modifying conditions are binding on the land as an amendment to this Ordinance and the Zoning Map.

(c)Subsequent Applications

1. Applications for development approvals and permits within the approved conditional zoning district must include a copy of the recorded notification required by subsection (a) above, affixed with the register's seal and the date, book, and page number of recording.

2. Subsequent development approvals and permits shall comply with the approved conditions and appropriate procedures and standards set forth in this Ordinance; however, subsequent development within the conditional zoning district may include minor deviations from the approved conditions, provided such deviations are limited to the following:

a. Changes addressing technical considerations that could not reasonably be anticipated during the conditional zoning review process; or

b. Changes having no material effect on the character of the approved conditional zoning district or any of its approved terms or conditions, which may include:

1. Driveway locations;

2. Structure floor plan revisions:

3. Minor shifts in building size or location; and

4. Facility design modifications for amenities and the like.

3. Modifications that materially affect the basic configuration or intent of approved conditions are not considered minor deviations under subsection 2 above. Such modifications are considered amendments and may only be approved using the same procedure used to establish the conditional zoning district.

4. If the final decision is to deny the application, conditional zoning applications proposing the same zoning on all or apportion of the subject lands will not be considered within one year of the decision. Planning Commission may waive this time limitation if it finds there is new and different evidence that was not reasonably available at the time of the original hearing.

c. CONDITIONAL ZONING REVIEW STANDARDS

Adopting a conditional zoning is a matter committed to the legislative discretion of the Planning and Zoning Commission or of the City Council, as authorized by this section. In determining whether to adopt or deny the proposed conditional zoning, the Planning and Zoning Commission or the City Council, as applicable, may consider the review standards that apply to Zoning Map amendments in Section 2.5.A(2)c, and the extent to which conditions of approval:

1. Address the impacts reasonably expected to be generated by the development or use of the site, including visual impacts, trash, traffic, service delivery, parking and loading, odors, noise, glare and vibration and not create a nuisance;

2. Can reasonably be implemented and enforced for the subject property; and

3. Will mitigate specific land development issues that would likely result if the subject property were zoned to accommodate all the uses and the minimum standards of the corresponding general zoning district. If any standards are proposed that are different from the underlying zoning district, the applicant must clearly demonstrate that the overall resultant project is greater than that which is typically allowed by the general district.

(4) PLANNED DEVELOPMENT

a. APPLICABILITY

1. The procedure in this section is required for the establishment of a planned development (PD) district. Planned developments are developments that are planned and developed under unified

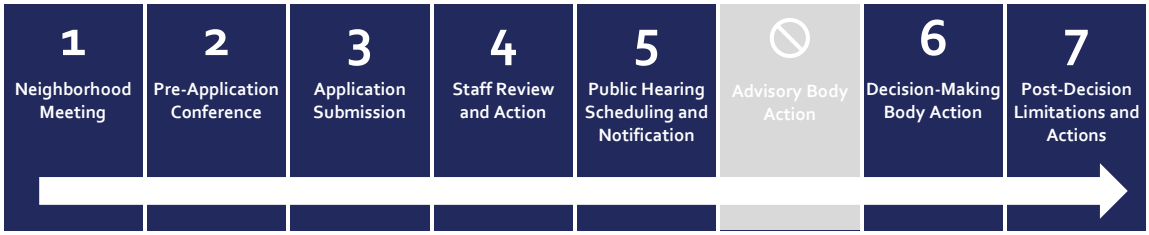
control and in accordance with more flexible standards and procedures in order to create more mixed-use, pedestrian-oriented, and otherwise higher quality development than could be achieved through general use (base) zoning district regulations.

2. A planned development is established by amendment of the Zoning Map to rezone land to a planned development district classification that is defined by a master plan and a terms and conditions document.

b. PLANNED DEVELOPMENT PROCEDURE

Figure 2.5.A(4)b summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to planned development (PD) applications. Subsections 1 through 8 below specify the required procedure for a planned development, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.A(4)b: Summary of Planned Development Procedure



1. Neighborhood Meeting

The applicant shall conduct a neighborhood meeting in accordance with Section 2.4.B.

2. Pre-Application Conference

A pre-application conference is required in accordance with Section 2.4.C.

3. Application Submission

Applications shall be submitted in accordance with Section 2.4.D, subject to the following modifications:

(a) In addition to the general application requirements, the application shall include:

1. A Traffic Impact Analysis, if required in accordance with Section 5.13, Traffic Impact Analysis (TIA);

2. A PD master plan depicting the general configuration and relationship of the principal elements of the proposed development, including uses, general building types, density/intensity, resource protection, pedestrian and vehicular circulation, open space, public facilities, and phasing;

3. A PD terms and conditions document specifying terms and conditions defining development parameters, providing for environmental mitigation, and outlining how public facilities will be provided to serve the planned development; and

4. A copy of the title to all land that is part of the proposed planned development, in order to ensure unified control.

4. Staff Review and Action

The Planning Director shall review and make a recommendation on the application in accordance with Section 2.4.E.

5. Scheduling of Public Hearing and Public Notification

The Planning Director shall schedule public hearings and provide public notification in accordance with Section 2.4.F.

6. Planning and Zoning Commission Action

(a) The Planning and Zoning Commission shall review and make a decision on the application in accordance with Section 2.4.H, Decision-Making Body Action, and Section 2.5.A(4)c, Planned Development Review Standards. The Planning and Zoning Commission's decision shall be one of the following:

1. Approve the planned development subject to the PD master plan and PD terms and conditions document in the application;

2. Approve the planned development subject to additional or revised conditions related to the PD master plan or PD terms and conditions; or

3. Deny the planned development.

(b) Prior to making a decision to approve or deny the planned development, the Planning and Zoning Commission, and, if applicable, the City Council shall adopt a statement in accordance with NCGS §§ 160D-604 and 160D-605 that:

1. Explains why the decision is reasonable and in the public interest; and

2. States that the planned development is either (i) consistent with the Comprehensive Plan, or (ii) inconsistent with the Comprehensive Plan and that the Future Land Use and Character Map in the Comprehensive Plan is therefore amended to be consistent with the adopted amendment.

7. City Council Action

(a) If any of the following occurs, the City Council shall hold a public hearing and make a decision on the application in accordance with Section 2.4.H, Decision-Making Body Action, and Section 2.5.A(4)c, Planned Development Review Standards:

1. The Planning and Zoning Commission denies the application;

2. The Planning and Zoning Commission approves the application by a vote of less than three-fourths of the members of the Commission; or

3. Any person aggrieved by the Planning and Zoning Commission's decision appeals the decision to the City Council by giving notice in writing to the Planning Director within 15 days of the decision.

(b) The City Council's decision shall be one of the following:

1. Approve the planned development subject to the PD master plan and PD terms and conditions document in the application;

2. Approve the planned development subject to additional or revised conditions related to the PD master plan or PD terms and conditions;

3. Deny the planned development; or

4. Remand the planned development application to the Planning and Zoning Commission for further consideration and recommendation.

(c) Prior to making a decision to approve or deny the planned development, the City Council shall adopt a statement in accordance with subsection 6(b) above.

8. Post-Decision Limitations and Actions

The post-decision limitations and actions in Section 2.4.I apply, in addition to the provisions in subsections (a) through (d) below.

(a)Placement on Zoning Map

If the City Council approves the planned development, the Planning Director shall place the approved PD district on the Zoning Map within a reasonable period of time after the approval.

(b)Effect of Approval

Lands rezoned to a PD district shall be subject to the approved PD master plan and the approved PD terms and conditions. The master plan and terms and conditions are binding on the land as an amendment to the text of this Ordinance and the Zoning Map. The applicant may apply for and obtain subsequent development permits and approvals necessary to implement the PD master plan in accordance with the appropriate procedures and standards set forth in this Ordinance.

(c)Subsequent Applications

1. Subsequent development approvals and permits within the approved PD district shall comply with the approved PD master plan and the PD terms and conditions; however, subsequent development may include minor deviations from the PD master plan or PD terms and conditions, provided such deviations are limited to:

a. Changes that result in a decrease in the density or intensity of development approved for a specific parcel;

b. An increase in residential density for any specific parcel of ten percent or less, if the total approved density within the planned development district does not increase;

c. A change in land use designation from multifamily to single-family;

d. A change in land use designation from any use to open space/passive recreation;

e. A modification of design of facilities for amenities such as parks, gardens, or open spaces, including a change in the location of up to ten percent of open space acreage;

f. A change in street layout to accommodate other allowable deviation, which does not significantly affect the PD master plan; or

g. A deviation specifically listed in the approved PD terms and conditions as a minor deviation not materially affecting the basic concept of the PD district or the basic parameters set by the PD terms and conditions.

2. Modifications that materially affect the basic concept of the PD master plan or basic parameters set by the PD terms and conditions are not considered minor deviations under subsection 1 above. Such modifications are considered amendments and may only be approved using the same procedure used to approve the planned development district.

(d)Expiration

If no application for approval of a preliminary plat or site plan for any part of the approved PD master plan is submitted within two years after approval of the planned development, irrespective of any intervening transfer of ownership, the Planning Director may initiate a zoning map amendment application to rezone the land back to its prior zoning classification or to any other base zoning classification determined to be appropriate; however, the applicant may request and the Planning Director may grant one extension of the two-year period of up to 180 days upon a showing of good cause, if the request is submitted at least 30 days before the approval expires.

C. PLANNED DEVELOPMENT REVIEW STANDARDS

Approval of a planned development is a matter committed to the legislative discretion of the Planning and Zoning Commission or of the City Council, as authorized by this section. In

determining whether to approve or deny the proposed planned development, the Planning and Zoning Commission or the City Council, as applicable, may consider the review standards that apply to Zoning Map amendments in Section 2.5.A(2)c, and shall consider the standards for the proposed type of PD district in Section 3.7.B, Planned Development District .

(5) SPECIAL USE PERMIT

a. APPLICABILITY

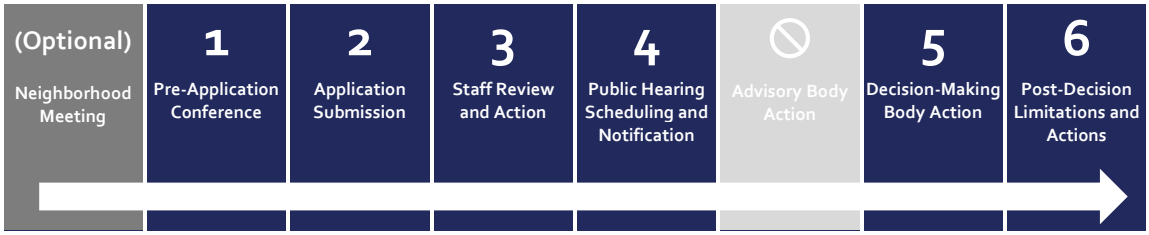
1. The procedure in this section is required for the submission and review of special use permit applications.

2. A special use permit is required prior to the issuance of a site plan, zoning clearance permit, or certification of compliance for any use designated by this Ordinance as a special use. A use is designated as a special use in a particular zoning district (see Section 4.2, Principal Uses) if the use may be appropriate in the district, but, because of its nature, extent, and external effects, requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings.

b. SPECIAL USE PERMIT PROCEDURE

Figure 2.5.A(5)b summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to special use permits. Subsections 1 through 6 below specify the required procedure for a special use permit, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.A(5)b: Summary of Special Use Permit Procedure



1. Pre-Application Conference

A pre-application conference is required in accordance with Section 2.4.C.

2. Application Submission

Applications shall be submitted in accordance with Section 2.4.D. The application shall include a development plan depicting the proposed development and containing all information required by the LDSM. The applicant shall submit a Traffic Impact Analysis with the application, if required in accordance with Section 5.13, Traffic Impact Analysis (TIA).

3. Staff Review and Action

The Planning Director shall review and make a recommendation on the application in accordance with Section 2.4.E.

4. Scheduling of Public Hearing and Public Notification

The Planning Director shall schedule public hearings and provide public notification in accordance with Section 2.4.F.

5. Decision-Making Body Hearing, Review, and Decision

The Board of Adjustment shall hold a quasi-judicial hearing on the application and make a decision in accordance with Section 2.4.H and Section 2.5.A(5)c, Special Use Permit Review Standards. The Board's decision shall be one of the following:

(a) Approve the application as submitted;

(b) Approve the application subject to conditions of approval; or

(c) Deny the application.

6. Post-Decision Limitations and Actions

(a) The post-decision limitations and actions in Section 2.4.I apply.

(b) Approval of a special use permit shall automatically expire after two years if a building permit for the authorized use is not obtained or if construction is not started. The approval of a special use permit may be extended if the Planning Director determines that building permit and construction activity did not begin because of factors related to the allocation of wastewater capacity for the project. Written notice of the decision shall be sent to the owner of the property that is subject to the special use permit and to the applicant, if different than the owner.

(c) If the application is denied, resubmittal of an application for substantially the same special use permit is not allowed unless the Planning Director determines there has been a substantial change in circumstances.

c. SPECIAL USE PERMIT REVIEW STANDARDS

The Board of Adjustment shall approve a special use permit application only on making the following determinations:

1. The proposed special use will be in harmony with the area in which it is to be located and in general conformance with the Comprehensive Plan;

2. Adequate measures will be taken to provide ingress and egress to minimize traffic hazards and traffic congestion on the public roads;

3. The proposed use will not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas;

4. The establishment of the proposed use will not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district;

5. The establishment, maintenance, and operation of the proposed use will not be detrimental to or endanger the public health, safety, or general welfare;

6. The proposed use complies with all applicable provisions of this Ordinance; and

7. The applicant consents in writing to all conditions of approval included in the approved special use permit.

B. SITE PLAN AND SUBDIVISION

(1) SITE PLAN

a. PURPOSE

Site plan review is intended to ensure that the layout and general design of proposed development is compatible with surrounding uses and complies with all applicable standards in this Ordinance and all other applicable City regulations.

b. APPLICABILITY

Site plan review and approval is required for all development except:

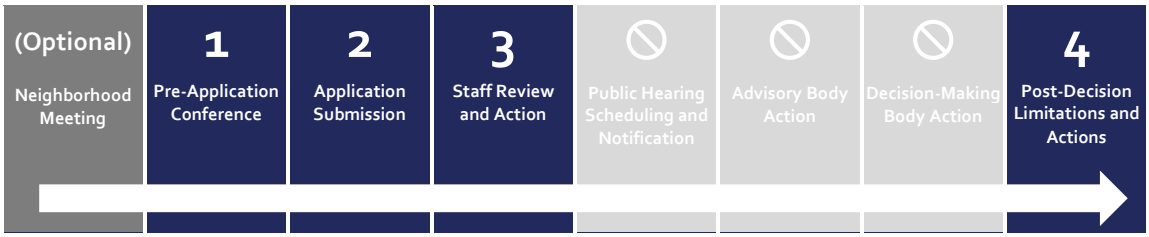
1. Development limited to single-family detached dwellings and duplexes on individual lots; and

2. Alterations of an existing structure limited to the interior of the structure that does not involve an increase in floor area, an increase in the density or intensity of use, or a change in parking requirements.

c. SITE PLAN PROCEDURES

Figure 2.5.B(1) summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to site plans. Subsections 1 through 4 below specify the required procedure for a site plan, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.B(1): Summary of Site Plan Procedure



1. Pre-Application Conference

A pre-application conference is required for development involving commercial uses having a gross floor area of 25,000 or more square feet and may be held at the option of the applicant in other cases in accordance with Section 2.4.C.

2. Application Submission

Applications shall be submitted in accordance with Section 2.4.D. The applicant shall submit a Traffic Impact Analysis with the application, if required in accordance with Section 5.13, Traffic Impact Analysis (TIA).

3. Staff Review and Action

The Planning Director shall review the application and make a decision in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.B(1)d, Site Plan Review Standards. The Planning Director's decision shall be one of the following:

(a) Approve the application as submitted;

(b) Approve the application, subject to conditions of approval; or

(c) Deny the application.

4. Post-Decision Limitations and Actions

(a) The post-decision limitations and actions in Section 2.4.I apply.

(b) Approval of a site plan shall automatically expire one year after the date of approval if a complete zoning clearance permit or grading permit has not been submitted or if substantial construction is not underway.

d. SITE PLAN REVIEW STANDARDS

The Planning Director shall approve an application for a site plan only after determining that the applicant demonstrates that the proposed development complies with all applicable standards in

this Ordinance and all other applicable City codes and regulations, including the City's adopted Fire Code. Fire flows and hydrant locations shall be determined by the Kannapolis Fire Department.

(2) MINOR SUBDIVISION

a. PURPOSE

The purpose of minor subdivision review under this section is to ensure that subdivisions that do not involve new public street dedications comply with the standards for subdivisions in this Ordinance and with state law.

b. APPLICABILITY

1. Approval of a minor subdivision preliminary plat and a minor subdivision final plat in accordance with the procedures and standards in this subsection is required for any subdivision as defined in Article 10: Definitions, resulting in five or fewer lots that does not involve new public street right-of-way dedications, except widening of existing, platted street rights-of-way.

2. Minor subdivision preliminary plan approval in accordance with subsection c below is required prior to minor subdivision final plat approval in accordance with subsection d below or installation of any public improvements proposed as part of the subdivision. Public improvements must be completed or appropriate guarantees, bonds, and sureties provided in accordance with Section 6.5, Guarantees, Bonds, and Sureties, prior to the approval of a minor subdivision final plat approval in accordance with subsection d below.

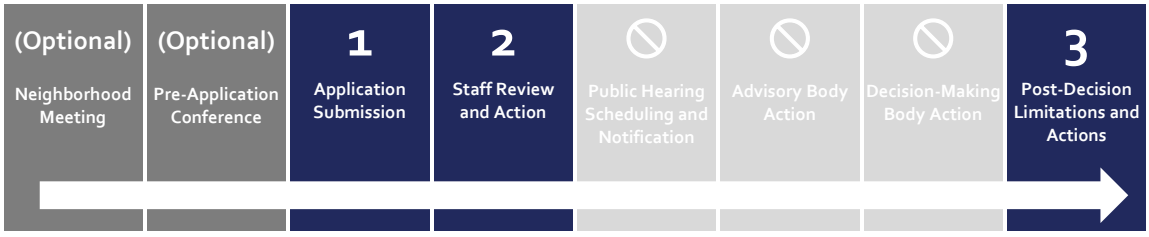
3. Minor subdivision final plat approval in accordance with subsection d below is required before any the recordation of the final plat, any conveyance of proposed lots, or the submittal of any application for a zoning clearance permit for development on any lot or parcel proposed as part of the subdivision.

c. MINOR SUBDIVISION PRELIMINARY PLAT

1. Minor Subdivision Preliminary Plat Procedure

Figure 2.5.B(2)c.1 summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to minor subdivision preliminary plats. Subsections (a) through (c) below specify the required procedure for a minor subdivision preliminary plat, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.B(2)c.1: Summary of Minor Subdivision Preliminary Plat Procedure



(a)Application Submission

Applications shall be submitted in accordance with Section 2.4.D.

(b)Staff Review and Action

The Planning Director, upon consultation with the Director of Engineering, shall review and make a decision on the application in accordance with Section 2.4.E, Staff Review and

Action, and Section 2.5.B(2)c.2, Minor Subdivision Preliminary Plat Review Standards. The Planning Director's decision shall be one of the following:

1. Approve the application as submitted;

2. Approve the application subject to conditions of approval; or

3. Deny the application.

(c)Post-Decision Limitations and Actions

1. The post-decision limitations and actions in Section 2.4.I apply.

2. After approval of the minor subdivision preliminary plat, the applicant may proceed directly to the filing of an application for a minor subdivision final plat in accordance with Section 2.5.B(2)d, Minor Subdivision Final Plat, subject to subsection 2 below.

3. Any extension of utilities or other public improvements must be approved by the Director of Engineering using the procedure and standards that apply to major subdivision construction plans in Section 2.5.B(3)d, Major Subdivision Construction Plans.

4. Approval of a minor subdivision preliminary plat shall automatically expire one year after the date of approval if a final plat for the subdivision is not submitted in accordance with Section 2.5.B(2)d, Minor Subdivision Final Plat.

2. Minor Subdivision Preliminary Plat Review Standards

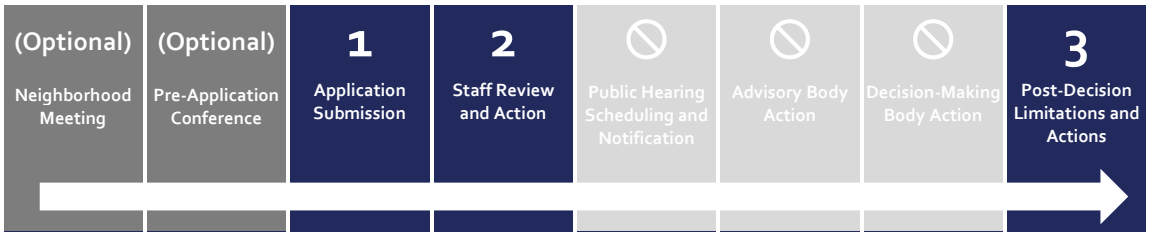
The Planning Director shall approve an application for a minor subdivision preliminary plat only after finding that the preliminary plat complies with this Ordinance, including the standards in Article 6: Subdivision Standards, and all other applicable City regulations.

d. MINOR SUBDIVISION FINAL PLAT

1. Minor Subdivision Final Plat Procedure

Figure 2.5.B(2)d.1 summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to minor subdivision final plats. Subsections (a) through (c) below specify the required procedure for a minor subdivision final plat, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.B(2)d.1: Summary of Minor Subdivision Final Plat Procedure



(a)Application Submission

Applications shall be submitted in accordance with Section 2.4.D.

(b)Staff Review and Action

Prior to approval of a final plat, the Planning Director shall provide an opportunity to review and make recommendations on the final plat to the district highway engineer as to proposed state-maintained streets and highways and related drainage systems, and the relevant county health director as to proposed water or sewerage systems, as applicable.

The Planning Director shall consult with the Director of Engineering if the subdivision includes water or sewer utility extensions, and shall review and make a decision on the application in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.B(2)d.2, Minor Subdivision Final Plat Review Standards. The Planning Director's decision shall be one of the following:

1. Approve the application as submitted;
2. Approve the application subject to conditions of approval; or
3. Deny the application.

(c) Post-Decision Limitations and Actions

The post-decision limitations and actions in Section 2.4.I apply, in addition to the provisions in subsections 1 through 3 below.

1. If the application is approved, the applicant shall revise the final plat as necessary to comply with any conditions of approval and shall submit the revised plat to the Planning Director. Upon determining that the plat is properly revised, the Planning Director, and, as appropriate, the Director of Engineering, shall sign the plat and provide any other certifications as may be appropriate.

2. Approval of a minor subdivision final plat shall automatically expire and become null and void 30 days after its approval if the applicant has not filed the plat in the office of the register of deeds. The Planning Director may grant up to two extensions of that time period, each up to 180 days, for good cause.

3. No zoning clearance permit shall be issued or approved until addresses and P.I.N.s (Parcel Identification Numbers) have been assigned to the lots.

2. Minor Subdivision Final Plat Review Standards

The Planning Director shall approve a minor subdivision final plat application only after finding the following:

(a) The final plat is in substantial conformity with the approved and valid minor subdivision preliminary plat;

(b) The final plat complies with this Ordinance, including the standards in Article 6: Subdivision Standards, and all other applicable City regulations; and

(c) Any improvements, including utility extensions, have been installed, inspected, and certified in accordance with applicable City and state regulations and utility requirements, or appropriate guarantees, bonds, and sureties have been provided in accordance with Section 6.5, Guarantees, Bonds, and Sureties.

(3) MAJOR SUBDIVISION

a. PURPOSE

The purpose of major subdivision review under this section is to ensure that all subdivisions that are not minor subdivisions comply with the standards for subdivisions in this Ordinance and with state law.

b. APPLICABILITY

1. Approval of a major subdivision preliminary plat, major subdivision construction plans, and major subdivision final plat in accordance with the procedures and standards in this subsection is required for any subdivision as defined in Article 10: Definitions, that is not subject to minor subdivision review in accordance with Section 2.5.B(2), Minor Subdivision.

2. Major subdivision preliminary plat approval is required prior to approval of major subdivision construction plans or major subdivision final plats.

3. Approval of major subdivision construction plans is required prior to the installation streets, traffic control devices, streetlights, sanitary sewers, storm water facilities, water system facilities, sidewalks and other required improvements.

4. All required public improvements must be completed in accordance with approved construction plans, subject to any modifications approved by the Director of Engineering prior to approval of a major subdivision final plat, unless appropriate guarantees, bonds, and sureties have been provided in accordance with Section 6.5, Guarantees, Bonds, and Sureties.

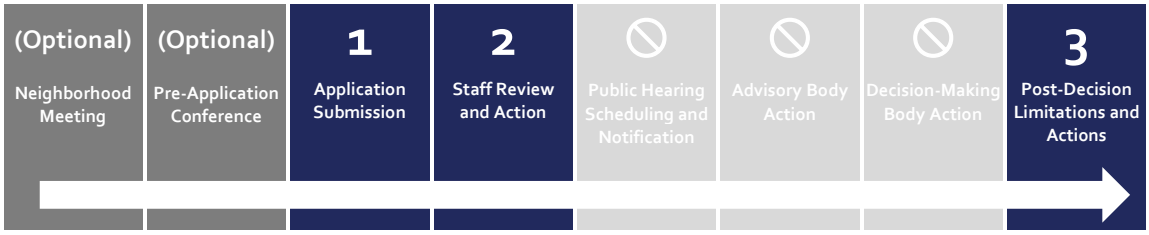
5. Final plat approval is required before the recordation of the final plat, any conveyance of proposed lots, or the submittal of any application for a zoning clearance permit for development on any lot or parcel proposed as part of the subdivision.

C. MAJOR SUBDIVISION PRELIMINARY PLAT

1. Major Subdivision Preliminary Plat Procedure

Figure 2.5.B(3)c.1 summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to major subdivision preliminary plats. Subsections (a) through (c) below specify the required procedure for a major subdivision preliminary plat, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.B(3)c.1: Summary of Major Subdivision Preliminary Plat Procedure



(a) Application Submission

Applications shall be submitted in accordance with Section 2.4.D. The applicant shall submit a Traffic Impact Analysis with the application, if required in accordance with Section 5.13, Traffic Impact Analysis (TIA).

(b) Staff Review and Action

The Planning Director shall review the application and the comments on the application provided by the TRC and shall make a decision in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.B(3)c.2, Major Subdivision Preliminary Plat Decision Standards. The Planning Director's decision on the application shall be one of the following:

1. Approve the application as submitted;
2. Approve the application subject to conditions of approval; or
3. Deny the application.

(c) Post-Decision Limitations and Actions

The post-decision limitations and actions in Section 2.4.I apply, in addition to the provisions in subsections 1 through 3 below.

1. Revised Plat Required

If the application is approved subject to conditions of approval, the applicant shall revise the preliminary plat as necessary to comply with any conditions of approval and shall file the revised plat with the Planning Director. No final plat of the subdivision may be approved until the revised preliminary plat has been filed with the Planning Director.

2. Expiration

a. Approval of a major subdivision preliminary plat shall automatically expire if a final plat of the subdivision is not approved within the time period(s) specified for final plat approval on the preliminary plat, or, if no time period is specified, within two years. Approval of a major subdivision final plat covering a portion of a preliminary plat shall re-establish the starting date for the period of validity of the preliminary plat to the date the final plat was approved if no additional time period is specified on the preliminary plat.

b. The Planning Director may grant an extension of the time period set forth in subsection **a** above for good cause on receiving a written request from the landowner prior to the expiration of the preliminary plat approval. If the Planning Director grants an extension, it shall provide written notification to the landowner specifying the time period of the extension. After the time period of the extension, the preliminary plat approval shall automatically expire and become void if a final plat of the subdivision is not approved.

3. Deviations

The Planning Director shall have the authority to approve the following deviations from an approved major subdivision preliminary plat. Deviations are restricted to parcel boundaries internal to the subdivision and shall not impact external property boundaries.

a. A change in the location of not more than ten percent of the number of lots;

b. A change in the location of any part of open space acreage of not more than ten percent of the gross acreage; or

c. A change in the location of any part of proposed street alignment and lot configuration of not more than ten percent of the gross acreage so long as the number of external access points is not decreased and the minimum street connectivity ratio as set forth in Section 5.1.C(6)b.1, Minimum Connectivity Ratio, is maintained.

2. Major Subdivision Preliminary Plat Decision Standards

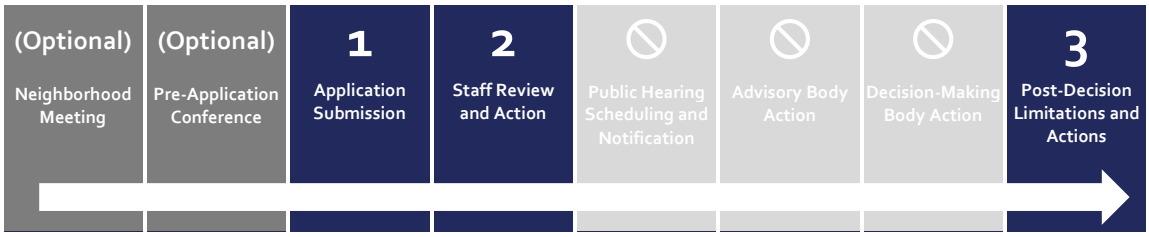
The Planning Director shall approve an application for a major subdivision preliminary plat on finding that the preliminary plat complies with this Ordinance, including the standards in Article 6: Subdivision Standards, and all other applicable City regulations.

d. MAJOR SUBDIVISION CONSTRUCTION PLANS

1. Major Subdivision Construction Plans Procedure

Figure 2.5.B(3)d.1 summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to major subdivision construction plans. Subsections (a) through (c) below specify the required procedure for major subdivision construction plans, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.B(3)d.1: Summary of Major Subdivision Construction Plans Procedure



(a)Application Submission

Applications shall be submitted in accordance with Section 2.4.D.

(b)Staff Review and Action

The Director of Engineering shall review the application and make a decision in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.B(3)d.2, Major Subdivision Construction Plans Review Standards. The Director of Engineering's decision shall be one of the following:

1. Approve the application as submitted;
2. Approve the application subject to conditions of approval; or
3. Deny the application.

(c)Post-Decision Limitations and Actions

The post-decision limitations and actions in Section 2.4.I apply. In addition, the provisions in subsections 1 through 4 below apply.

1. All installations of improvements shall conform to the approved construction plans; however, modifications in design or specifications may be approved by the Director of Engineering prior to construction. The applicant shall notify the Planning Director of any approved modification in design or specification prior to commencing work on the improvement.

2. Any construction work that deviates from the approved construction plans, or modifications thereof approved by the Director of Engineering, shall constitute a violation of this Ordinance in accordance with Section 8.3, Violations, subject to the remedies and penalties in Section 8.6, Remedies and Penalties.

3. Prior to final inspection of the required improvements, the applicant shall submit to the Planning Director and Director of Engineering as-built engineering drawings for each of the required improvements that have been completed, in accordance with the requirements in the LDSM. Each set of drawings shall be re-certified by the applicant's engineer indicating the date when the as-built survey was made.

4. Approval of the installation of improvements by the Director of Engineering shall not constitute acceptance by the City of the improvement for dedication purposes. The installation of improvements in a subdivision shall not bind the City to accept such improvements for their maintenance, repair or operation. Such acceptance shall be subject to the existing regulations concerning the acceptance of each type of improvement.

2. Major Subdivision Construction Plans Review Standards

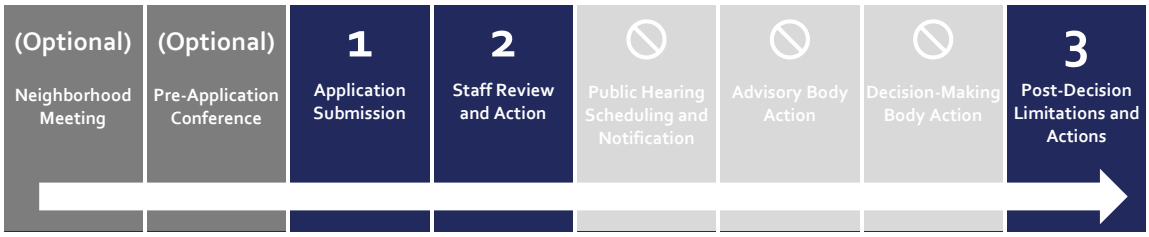
The Director of Engineering shall approve major subdivision construction plans after finding that the plans comply with this Ordinance, including the standards in Article 6: Subdivision Standards, and all other applicable City and state regulations.

e. MAJOR SUBDIVISION FINAL PLAT

1. Procedure

Figure 2.5.B(3)e.1 summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to major subdivision final plats. Subsections (a) through (c) below specify the required procedure for major subdivision final plats, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.B(3)e.1: Summary of Major Subdivision Final Plat Procedure



(a)Application Submission

Applications shall be submitted in accordance with Section 2.4.D.

(b)Staff Review and Action

Prior to approval of a final plat, the Planning Director shall provide an opportunity to review and make recommendations on the final plat to the district highway engineer as to proposed state-maintained streets and highways and related drainage systems, and the relevant county health director as to proposed water or sewerage systems, as applicable. The Planning Director shall review and make a decision on the application in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.B(3)e.2, Major Subdivision Final Plat Review Standards. The Planning Director's decision shall be one of the following:

1. Approve the application as submitted;
2. Approve the application subject to conditions of approval; or
3. Deny the application.

(c)Post-Decision Limitations and Actions

The post-decision limitations and actions in Section 2.4.I apply, in addition to the provisions in subsections 1 through 3 below.

1. If the application is approved, the applicant shall revise the final plat as necessary to comply with any conditions of approval and shall submit the revised plat to the Planning Director. Upon determining that the plat is properly revised, the Planning Director, and, as appropriate, the Director of Engineering, shall certify that the final plat is approved by the City in accordance with this Ordinance by signing the plat and providing any other certifications as may be appropriate.

2. Approval of a major subdivision final plat shall automatically expire and become null and void 30 days after its approval if the applicant has not filed the plat in the office of the register of deeds. The Planning Director may grant up to two extensions of that time period, each up to 180 days, for good cause.

3. No zoning clearance permit shall be issued or approved until addresses and P.I.N.s (Parcel Identification Numbers) have been assigned to the lots.

2. Major Subdivision Final Plat Review Standards

The Planning Director shall approve a major subdivision final plat application only after finding the following:

(a) The final plat is in substantial conformity with the approved and valid major subdivision preliminary plat;

(b) The final plat complies with this Ordinance, including the standards in Article 6: Subdivision Standards, and all other applicable City regulations; and

(c) All improvements have been completed in accordance with applicable City and state regulations and utility requirements, or appropriate guarantees, bonds, and sureties have provided in accordance with Section 6.5, Guarantees, Bonds, and Sureties.

(4) EXEMPT SUBDIVISION DETERMINATION

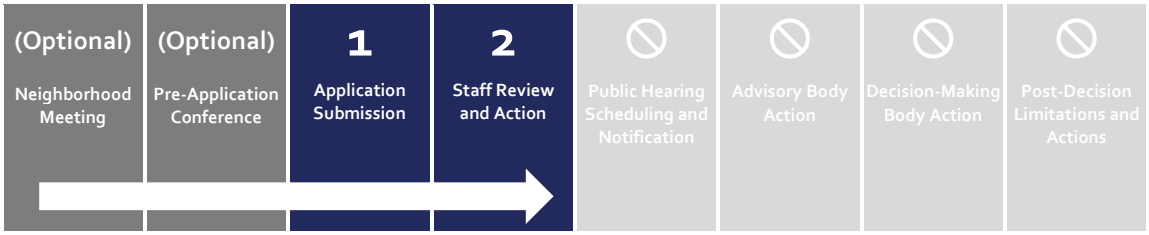
a. PURPOSE

The purpose of this section is to provide a uniform mechanism for the Planning Director to certify that a proposed division of land is exempt from the definition of subdivision under state law and not subject to approval by the City.

b. EXEMPT SUBDIVISION DETERMINATION PROCEDURE

Figure 2.5.B(4)b summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to exempt subdivision determinations. Subsections1 and 2 below specify the required procedure for an exempt subdivision determination, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.B(4)b: Summary of Exempt Subdivision Determination Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D.

2. Staff Review and Action

The Planning Director shall review the application in accordance with Section 2.4.E, Staff Review and Action, and shall do one of the following in accordance with Section 2.5.B(4)c, Exempt Subdivision Determination Review Standards:

(a) Enter onto the plat or other instrument, as applicable, the Planning Director's signed certification that the proposed division of land does not constitute a subdivision subject to approval by the City; or

(b) Return the application to the applicant, along with a written explanation describing why the proposed division of land constitutes a subdivision subject to review by the City.

c. EXEMPT SUBDIVISION DETERMINATION REVIEW STANDARDS

The Planning Director shall enter onto the plat or other instrument, as applicable, the Planning Director's signed certification that the proposed division of land does not constitute a subdivision subject to approval by the City on determining that the proposed division is any of the following:

1. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards in Article 6: Subdivision Standards.
2. The division of land into parcels greater than ten acres where no street right-of-way dedication is involved.
3. The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
4. The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards in Article 6: Subdivision Standards.
5. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the North Carolina General Statutes.

C. PERMITS

(1) ZONING CLEARANCE PERMIT

a. PURPOSE

The purpose of a zoning clearance permit is to ensure that any development requiring a building permit, construction not requiring a building permit, or change of use of a structure or land complies with the requirements of this Ordinance.

b. APPLICABILITY

1. Approval of a zoning clearance permit in accordance with the procedure and standards in this section is required prior to any of the following:

   (a) The issuance of a building permit;

   (b) The commencement of construction of any structure that does not require a building permit; or

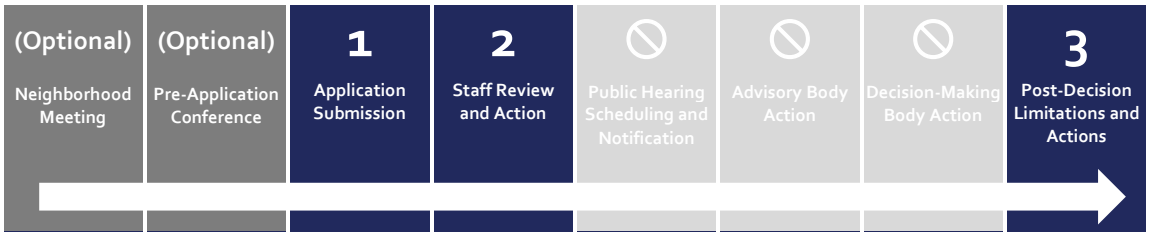
   (c) A change of use of any structure or land.

2. If proposed development requires approval of a zoning clearance permit in accordance with this section and approval of a site plan in accordance with Section 2.5.B(1), Site Plan, the corresponding approved site plan must be submitted with the application for a zoning clearance permit.

c. ZONING CLEARANCE PERMIT PROCEDURE

Figure 2.5.C(1)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to zoning clearance permits. Subsections 1 through 3 below specify the required procedure for a zoning clearance permit, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.C(1)c: Summary of Zoning Clearance Permit Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D, Application Submission. If the proposed development is not subject to site plan review (see Section 2.5.B(1), Site Plan), a plot plan meeting the requirements set forth in the LDSM must be submitted with the application. The plot plan shall show, at a minimum, all existing structures, proposed structures, setbacks, applicable easements, sight triangles, and existing or proposed tap locations.

2. Staff Review and Action

The Planning Director shall review and make a decision on the application in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.C(1)d, Zoning Clearance Permit Review Standards. The Planning Director's decision shall be one of the following:

(a) Approve the application as submitted;

(b) Approve the application, subject to conditions of approval; or

(c) Deny the application.

3. Post-Decision Limitations and Actions

(a) The post-decision limitations and actions in Section 2.4.I apply.

(b) A zoning clearance permit shall automatically expire one year after the date it is issued if:

1. The permit was issued for activity requiring a building permit and the building permit was not been obtained;

2. The permit was issued for construction activities not requiring a building permit and those activities did not commence; or

3. The permit was issued for a change of use only and the change of use did not occur.

d. ZONING CLEARANCE PERMIT REVIEW STANDARDS

The Planning Director shall approve an application for a zoning clearance permit only on determining that the proposed activity complies with this Ordinance.

(2) CERTIFICATE OF COMPLIANCE

a. PURPOSE

The purpose of a certificate of compliance is to ensure that any building or land that is erected, changed, converted, altered, or enlarged is not used or occupied, or connected to or provided with utilities, unless it complies with the requirements of this Ordinance.

b. APPLICABILITY

1. Approval of a certificate of compliance in accordance with the procedures and standards in this section is required if a building or land is erected, changed, converted, altered, or enlarged prior to any of the following:

(a) The use or occupancy of the building or land; or

(b) The provision or connection of utilities to the building or land.

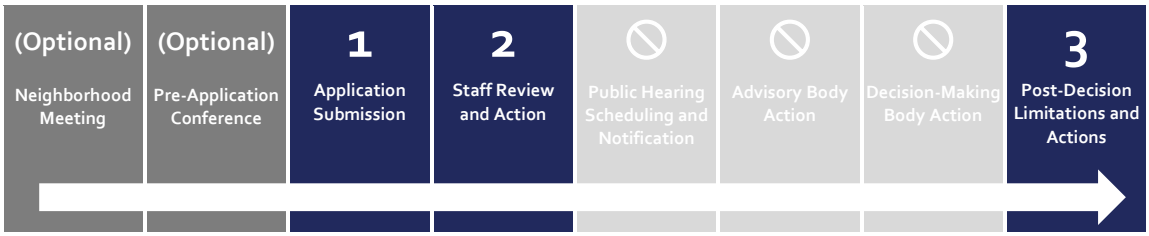
2. The Planning Director may issue a certificate of compliance that is valid for up to 180 days to allow for partial occupancy of a structure or land in order to complete construction or alteration, or to allow for utilities to be connected to an unoccupied structure for rent or sale.

3. If proposed development requires approval of a certificate of compliance in accordance with this section and approval of a site plan in accordance with Section 2.5.B(1), Site Plan, the corresponding approved site plan must be submitted with the application for a certificate of compliance.

c. CERTIFICATE OF COMPLIANCE PROCEDURE

Figure 2.5.C(2)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to certificates of compliance. Subsections 1 through 3 below specify the required procedure for a certificate of compliance, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.C(2)c: Summary of Certificate of Compliance Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D, Application Submission. In addition, if the proposed development is not subject to site plan review (see Sec. Section 2.5.B(1)b, Applicability), a plot plan meeting the requirements set forth in the LDSM must be submitted with the application.

2. Staff Review and Action

The Planning Director shall review and make a decision on the application in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.C(2)d, Certificate of Compliance Review Standards. The Planning Director's decision shall be one of the following:

(a) Approve the application as submitted;

(b) Approve the application, subject to conditions of approval; or

(c) Deny the application.

3. Post-Decision Limitations and Actions

The post-decision limitations and actions in Section 2.4.I apply, in addition to the provisions in subsections (a) and (b) below.

(a)Expiration

1. Subject to subsection (b) below, a certificate of compliance shall remain valid unless the building or land for which the certificate was issued is in violation of this Ordinance (see Section 8.3, Violations).

2. A certificate of compliance shall automatically expire one year after the date it is issued if:

a. The certificate was issued to allow for partial occupancy of a structure or land in order to complete construction or alteration; or

b. The certificate was issued to allow for utilities to be connected to an unoccupied structure for rent or sale.

(b)Performance Guarantee

1. If improvements cannot be completed or installed due to adverse weather conditions or other reasonable factors, the applicant may submit to the Planning Director a performance guarantee for the improvements in the form of a certified check, cashier's check, bond, or letter of credit. The performance guarantee shall be in the amount of 125 percent of the written estimate required by subsection b below. The applicant shall submit the following information with the guarantee:

a. A specific description of the factors hindering completion or installation of the improvements; and

b. A written estimate from a licensed contractor of the cost of materials and labor for completing the work.

2. On receipt of a performance guarantee in accordance with subsection 1 above, the Planning Director shall accept the performance guarantee if the submission of a performance guarantee is appropriate and if the estimate is acceptable. The duration of the performance guarantee shall be one year unless the developer determines that the scope of work necessitates a longer duration. If the improvements are not completed to specifications, and the performance guarantee is likely to expire prior to competition of the required improvements, the performance guarantee shall be extended or a new guarantee issued in an amount equal to 125 percent of the estimated cost of incomplete improvements for the duration necessary to complete the required improvements,

3. The Planning Director shall release the performance guarantee on determining that the improvements have been completed and installed in accordance with this Ordinance.

4. If improvements are not completed and installed within 180 days after the certificate of compliance is issued, the Planning Director may draw on the performance guarantee to complete and install the improvements, after providing 30-days written notice to the applicant. The applicant may request, and the Planning Director may grant, for good cause shown, up to two 180-day extensions of the initial 180-day period if the applicant requests the extension(s) before the end of the initial period or the extension period, as applicable.

d. CERTIFICATE OF COMPLIANCE REVIEW STANDARDS

The Planning Director shall approve an application for a certificate of compliance only on determining that:

1. All completed improvements of the building or land for which the certificate of compliance is sought comply with this Ordinance; and

2. The applicant has submitted an appropriate performance guarantee in accordance with Section 2.5.C(2)c.3(b), Performance Guarantee, for any improvements that have not been completed.

(3) TREE REMOVAL PERMIT

a. PURPOSE

The purpose of a tree removal permit is to ensure that the removal of trees on land that is not subject to an approved site plan, subdivision, grading permit, or zoning clearance permit complies with the standards in Section 5.3.J, Tree Protection.

b. APPLICABILITY

1. Except for activities exempted by subsection 2 below, approval of a tree removal permit in accordance with the procedure and standards in this section is required prior to any clear-cutting or significant land-disturbing activities. For the purposes of this sub-section, "significant land-disturbing activities" includes deposition or removal of fill, grading or grubbing of a site, and trenching.

2. The following activities are exempt from the requirements of this section:

(a) The removal of dead or naturally fallen trees;

(b) The removal of diseased trees posing a threat to adjacent trees;

(c) The selective and limited removal of trees or vegetation necessary to obtain clear visibility within sight distance triangles;

(d) Removal of trees on developed single-family residential lots or lots within a single-family residential subdivision that was platted prior to July 1, 2022;

(e) Land-disturbing activities and tree removal in accordance with a site plan, preliminary plat, or building permit approved after July 1, 2022;

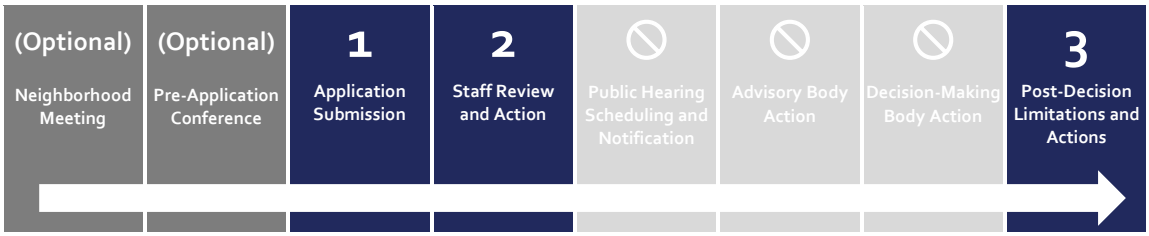
(f) The removal of vegetation by public or private agencies within the lines of any right-of-way, easement, or other City-owned lands as may be necessary to ensure public safety; and

(g) Land disturbing activities undertaken on land under agricultural, horticultural, or forest production and taxed at present-use value in accordance with state law.

c. TREE REMOVAL PERMIT PROCEDURE

Figure 2.5.C(3)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to tree removal permits. Subsections 1 through 3 below specify the required procedure for a tree removal permit, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.C(3)c: Summary of Tree Removal Permit Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D, Application Submission.

2. Staff Review and Action

The Planning Director shall review and make a decision on the application in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.C(3)d, Tree Removal Permit Review Standards. The Planning Director's decision shall be one of the following:

(a) Approve the application as submitted;

(b) Approve the application, subject to conditions of approval; or

(c) Deny the application.

3. Post-Decision Limitations and Actions

(a) The post-decision limitations and actions in Section 2.4.I apply.

(b) A tree removal permit shall automatically expire 180 days after the date it is issued.

d. TREE REMOVAL PERMIT REVIEW STANDARDS

The Planning Director shall approve a tree removal permit application only on finding the following:

1. All protected trees within the site are preserved or maintained during and after any tree removal or other land-disturbing activity, or a plan for mitigation consistent with the requirements in Section 5.3.J(7), Replacement/Mitigation of Specimen Trees, has been approved by the Planning Director; and

2. A tree protection zone around all protected trees to be preserved is established consistent with the requirements in Section 5.3.J(4), Tree Protection Zone Established. If a tract or site proposed for tree removal or other land-disturbing activity contains no protected trees, the tree removal permit shall indicate that no tree protection zones are required.

(4) TEMPORARY USE PERMIT

a. PURPOSE

The purpose of a temporary use permit is to ensure that certain uses occurring on a short-term, seasonal, or transient basis comply with the standards for those uses in this Ordinance.

b. APPLICABILITY

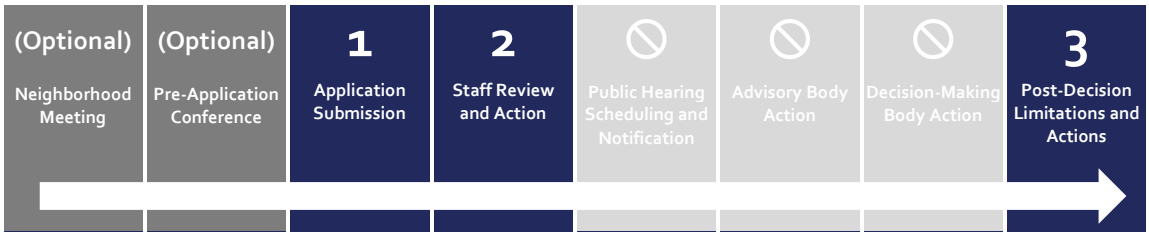
1. Approval of a temporary use permit in accordance with the procedure and standards in this section is required prior to the commencement of any temporary use or structure identified as requiring a temporary use permit in Section 4.4, Temporary Uses and Structures.

2. For any single parcel of land, a maximum of one temporary use permit shall be permitted at any given time.

c. TEMPORARY USE PERMIT PROCEDURE

Figure 2.5.C(4)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to temporary use permits. Subsections 1 through 3 below specify the required procedure for a temporary use permit, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.C(4)c: Summary of Temporary Use Permit Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D, Application Submission.

2. Staff Review and Action

(a) The Planning Director shall review and make a decision on the application in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.C(4)d, Temporary Use Permit review Standards. The Planning Director's decision shall be one of the following:

1. Approve the application as submitted;
2. Approve the application, subject to conditions of approval; or
3. Deny the application.

(b) If the application is approved, the Planning Director shall ensure that the temporary use permit specifies the time period during which the permit is valid.

3. Post-Decision Limitations and Actions

(a) The post-decision limitations and actions in Section 2.4.I apply.

(b) A copy of the temporary use permit shall be prominently displayed on the site of the temporary use or structure.

(c) A temporary use permit shall be effective beginning on the date specified on the permit and shall remain effective only for the period specified on the permit, subject to subsection (c) below.

(d) A temporary use permit shall automatically expire on the subsequent issuance of a temporary use permit for the same parcel of land.

d. TEMPORARY USE PERMIT REVIEW STANDARDS

The Planning Director shall approve a temporary use permit application only after finding that the temporary use or structure, as proposed, complies with the relevant standards in Section 4.4, Temporary Uses and Structures.

(5) HOME OCCUPATION PERMIT

a. PURPOSE

The purpose of a home occupation permit is to ensure that home occupations comply with the standards in Section 4.3.D(11), Home occupation. The purpose of this section is to provide a uniform mechanism for allowing residents of the community to use their residences as places to enhance or fulfill personal economic goals, under certain specified standards to ensure the use:

1. Is compatible with, and does not have a deleterious effect on, adjacent and nearby residential properties and uses; and

2. Does not burden public and private services, such as streets, sewers, and water or utility systems, to a greater degree than that normally associated with the residential use.

b. APPLICABILITY

1. Except for activities exempted by subsection 2 below, approval of a home occupation permit in accordance with the procedure and standards in this section is required prior to the establishment of a home occupation (see Article 10: Definitions).

2. The following activities are exempt from the requirements of this section:

(a) Artists, sculptors, composers not selling their artistic product to the public on the premises;

(b) Craft work, such as jewelry-making and pottery, that does not include sales to the public on the premises;

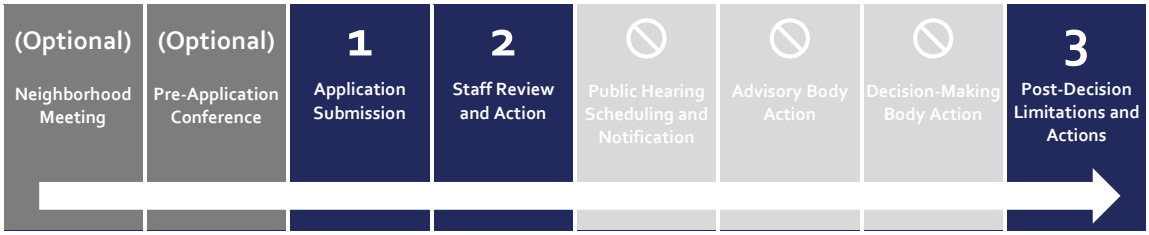
(c) Home offices that do not include visits by customers or clients to the premises; and

(d) Telephone answering and messaging services.

c. HOME OCCUPATION PERMIT PROCEDURE

Figure 2.5.C(5)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to home occupation permits. Subsections 1 through 3 below specify the required procedure for a home occupation permit, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.C(5)c: Summary of Home Occupation Permit Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D, Application Submission.

2. Staff Review and Action

The Planning Director shall review and make a decision on the application in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.C(5)d, Home Occupation Permit Review Standards. The Planning Director's decision shall be one of the following:

(a) Approve the application as submitted;

(b) Approve the application, subject to conditions of approval; or

(c) Deny the application.

3. Post-Decision Limitations and Actions

(a) The post-decision limitations and actions in Section 2.4.I apply, except the expiration of a home occupation permit shall be in accordance with subsection (b) below.

(b) A home occupation permit shall automatically expire if any of the following occur:

1. The principal use of the property is no longer a dwelling;

2. The dwelling is sold or rented and is not renewed within 30 days after written notice of the discontinuance from the Planning Director; or

3. The home occupation is discontinued for a period of 180 days or more and is not renewed within 30 days after written notice of the discontinuance from the Planning Director.

d. HOME OCCUPATION PERMIT REVIEW STANDARDS

The Planning Director shall approve a home occupation permit application only on finding that the proposed use complies with the standards in Section 4.3.D(11), Home occupation.

(6) SIGN PERMIT

a. PURPOSE

The purpose of this section is to ensure that signs comply with this Ordinance and with other applicable City and state regulations.

b. APPLICABILITY

1. Unless exempted by subsection 2 below, approval of a sign permit in accordance with the procedure and standards in this section is required before any sign is erected, replaced, relocated, or altered.

2. The following signs are exempt from the requirements of this section:

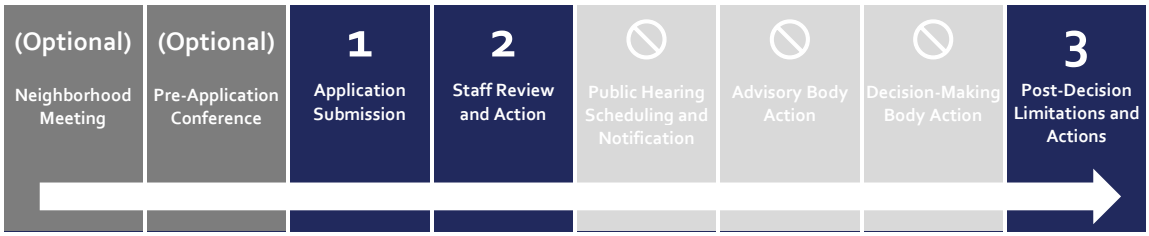
(a) Signs identified in Section 5.9.B(2), Exempt Signs, as exempt from the signage regulations in Section 5.9, Sign Standards; and

(b) Signs identified in Section 5.9.D, Signs That Do Not Require a Sign Permit, as not requiring a sign permit in accordance with this section (but still required to comply with the standards in Section 5.9, Sign Standards).

c. SIGN PERMIT PROCEDURE

Figure 2.5.C(6)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to sign permits. Subsections 1 through 3 below specify the required procedure for a sign permit, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.C(6)c: Summary of Sign Permit Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D, Application Submission. The application shall include, along with all other required submission materials, a signage plan meeting the requirements set forth in the LDSM.

2. Staff Review and Action

The Planning Director shall review and make a decision on the application in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.C(6)d, Sign Permit Review Standards. The Planning Director's decision shall be one of the following:

(a) Approve the application as submitted;

(b) Approve the application, subject to conditions of approval; or

(c) Deny the application.

3. **Post-Decision Limitations and Actions**

The post-decision limitations and actions in Section 2.4.I apply.

d. SIGN PERMIT REVIEW STANDARDS

The Planning Director shall approve a sign permit application only on finding the application complies with the standards in Section 5.9, Sign Standards, and any other relevant provisions of this Ordinance, including valid development approvals and permits.

(7) GRADING PERMIT

a. PURPOSE

The purpose of a grading permit is to ensure that any land disturbing activity (see Article 10: Definitions) complies with this Ordinance and with other applicable City and state regulations.

b. APPLICABILITY

1. Unless exempted by subsection 2 below, approval of a grading permit is required prior to the commencement of any land disturbing activity (see Article 10: Definitions).

2. A grading permit is not required for any of the following:

(a) Uses in the Agricultural/Rural use classification (see Section 4.2.C, Classification of Principal Uses);

(b) Development limited to a single-family detached home; and

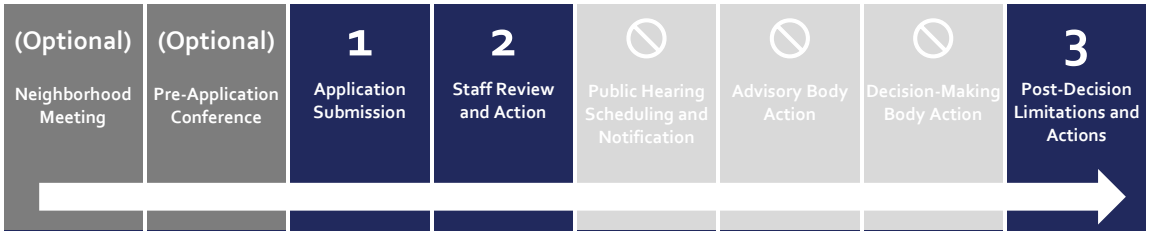
(c) Land disturbing activities of one acre or less.

3. A grading permit shall not be issued until any required erosion and sedimentation control permit has been issued by the North Carolina Department of Environmental Quality.

c. GRADING PERMIT PROCEDURE

Figure 2.5.C(7)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to grading permits. Subsections 1 through 3 below specify the required procedure for a grading permit, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.C(7)c: Summary of Grading Permit Procedure



1. **Application Submission**

Applications shall be submitted in accordance with Section 2.4.D, Application Submission. The application shall include, along with all other required submission materials, a grading plan meeting the requirements set forth in the LDSM.

2. Staff Review and Action

The Director of Engineering shall review and make a decision on the application in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.C(7)d, Grading Permit Review Standards. The Director of Engineering's decision shall be one of the following:

(a) Approve the application as submitted;

(b) Approve the application, subject to conditions of approval; or

(c) Deny the application.

3. Post-Decision Limitations and Actions

(a) The post-decision limitations and actions in Section 2.4.I apply.

(b) A grading permit shall automatically expire one year after the date it is issued.

d. GRADING PERMIT REVIEW STANDARDS

The Director of Engineering shall approve a grading permit application on finding the following:

(a) The proposed land disturbing activity complies with this Ordinance, including the standards in Section 5.3, Landscaping and Buffer Standards, Section 3.8.D, Floodplain Protection Overlay (FPO) District, Section 3.8.H, River/Stream Overlay (RSO) District, and Section 3.8.I, Watershed Protection Overlay (WPO) District; and

(b) All required erosion and sedimentation control permits associated with the proposed land disturbing activity have been issued by the North Carolina Department of Environmental Quality, as applicable.

(8) EROSION CONTROL PERMIT

a. PURPOSE

The purpose of this section is to establish a uniform mechanism for ensuring that proposed development complies with applicable requirements for controlling erosion and sedimentation.

b. APPLICABILITY

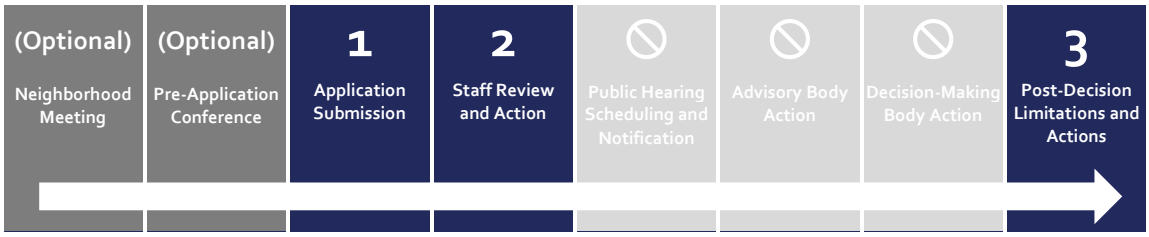
1. Approval of an erosion control permit in accordance with this section is required prior to the approval of any development approval or permit that includes land disturbance activities of less than one acre.

2. Erosion and sedimentation control administration and enforcement for land disturbance activities of one acre or more are under the jurisdiction of the North Carolina Department of Environmental Quality. State standards, requirements, and procedures governing erosion and sedimentation control apply on lands that are subject to this Ordinance.

c. EROSION CONTROL PERMIT PROCEDURE

Figure 2.5.C(8)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to erosion control permits. Subsections 1 through 3 below specify the required procedure for an erosion control permit, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.C(8)c: Summary of Erosion Control Permit Procedure



1. **Application Submission**

   Applications shall be submitted in accordance with Section 2.4.D, Application Submission. The application shall include, along with all other required submission materials, an erosion control plan meeting the requirements set forth in the LDSM.

2. **Staff Review and Action**

   The Director of Engineering shall review and make a decision on the application in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.C(8)d, Erosion Control Permit Review Standards. The Director of Engineering's decision shall be one of the following:

   (a) Approve the application as submitted;

   (b) Approve the application, subject to conditions of approval; or

   (c) Deny the application.

3. **Post-Decision Limitations and Actions**

   The post-decision limitations and actions in Section 2.4.I apply.

d. EROSION CONTROL PERMIT REVIEW STANDARDS

The Director of Engineering shall approve an erosion control permit application on finding the erosion control plan complies with all requirements for erosion control in the LDSM.

(9) FLOODPLAIN DEVELOPMENT PERMIT

a. PURPOSE

The purpose of floodplain development permits is to establish procedures and standards for the review of development located within Special Flood Hazard Areas, to reduce the potential for damage to property and life from flooding or floodwaters.

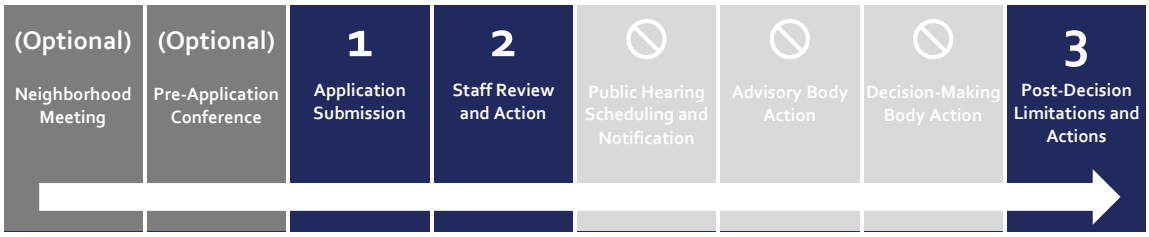
b. APPLICABILITY

Approval of a floodplain development permit in accordance with the procedure and standards in this section is required prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with Section 3.8.D(7), Basis for Establishing the Areas of Special Flood Hazard.

c. FLOODPLAIN DEVELOPMENT PERMIT PROCEDURE

Figure 2.5.C(9)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to floodplain development permits. Subsections 1 through 3 below specify the required procedure for a floodplain development permit, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.C(9)c: Summary of Floodplain Development Permit Procedure



1. **Application Submission**

   Applications shall be submitted in accordance with Section 2.4.D, Application Submission. The application shall include, along with all other required submission materials, a Flood Prevention Plan meeting the requirements set forth in the LDSM.

2. **Staff Review and Action**

(a) The Planning Director shall review and make a decision on the application in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.C(9)d, Floodplain Development Permit Review Standards. The Planning Director's decision shall be one of the following:

1. Approve the application as submitted;
2. Approve the application, subject to conditions of approval; or
3. Deny the application.

(b) The floodplain development permit shall contain the information listed in Section 3.8.D(15)c.

3. **Post-Decision Limitations and Actions**

   The post-decision limitations and actions in Section 2.4.I apply, in addition to the provisions in subsections below.

(a) The permit holder shall comply with all certification requirements in Section 3.8.D(16), Certification Requirements.

(b) The Planning Director shall conduct inspections and address violations in accordance with Article 8: Enforcement.

d. FLOODPLAIN DEVELOPMENT PERMIT REVIEW STANDARDS

The Planning Director shall approve a floodplain development permit application on finding that the proposed development complies with the standards in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

(10) STORMWATER MANAGEMENT PERMIT

a. PURPOSE

The purpose of a stormwater management permit is to ensure that any land disturbing activity complies with Section 5.10, Stormwater Management Standards, and with any applicable development approvals and permits.

b. APPLICABILITY

1. Approval of a stormwater management permit in accordance with the procedures and standards in this section is required prior to any land disturbing activity, unless exempted by subsection 2 below.

2. A stormwater management permit is not required for any of the following:

(a) Uses in the Agricultural/Rural use classification (see Section 4.2.C, Classification of Principal Uses), provided such uses shall comply with the standards in , unless exempted by subsection d below;

(b) Development limited to a single-family detached home;

(c) Land disturbing activities of less than 20,000 square feet, unless such activities are part of a larger common plan of development or sale, even though multiple, separate or distinct activities take place at different times on different schedules; and

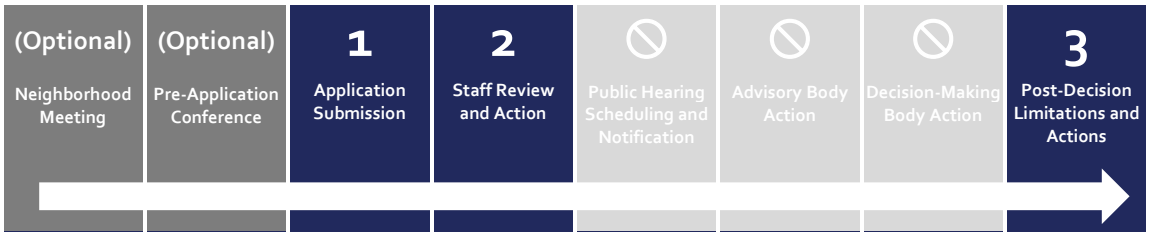
(d) Activities that are exempt from permit requirements of Section 404 of the federal Clean Water Act, as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities).

3. A stormwater management permit shall not be issued until an erosion and sedimentation control permit has been issued by the North Carolina Department of Environmental Quality, if required.

c. STORMWATER MANAGEMENT PERMIT PROCEDURE

Figure 2.5.C(10)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to stormwater management permits. Subsections 1 through 3 below specify the required procedure for a stormwater management permit, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.C(10)c: Summary of Stormwater Management Permit Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D, Application Submission, in addition to the provisions in subsections (a) and (b) below.

(a) The application shall include, in addition to all other required application materials, plans detailing how post-development stormwater runoff will be controlled and managed and how the proposed project will meet the requirements in Section 5.10, Stormwater Management Standards. The plans shall meet the applicable requirements of the LDSM.

(b) The Director of Engineering may request a consultation on a concept plan for the post-construction stormwater management system and stormwater drainage plan to be utilized in the proposed development project as set forth in the LDSM.

2. Staff Review and Action

The Director of Engineering shall review and make a decision on the application in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.C(2)d, Certificate of Compliance Review Standards. The Director of Engineering's decision shall be one of the following:

(a) Approve the application as submitted;

(b) Approve the application, subject to conditions of approval; or

(c) Deny the application.

3. Post-Decision Limitations and Actions

The post-decision limitations and actions in Section 2.4.I apply, in addition to the provisions in subsections (a) and (b) below.

(a) No certificate of compliance shall be issued until the applicant has submitted final as-built plans and the Director of Engineering has conducted a final walk-through inspection, approved all utility inspection videos, and approved the final as-built plans. Where multiple units are served by the stormwater practice or facilities, the Director of Engineering may elect to withhold a percentage of permits or certificates of occupancy until as-built plans are submitted and final inspection and approval has occurred.

(b) A stormwater management permit shall automatically expire one year after the date it is issued if construction has not commenced.

d. STORMWATER MANAGEMENT PERMIT REVIEW STANDARDS

The Director of Engineering shall approve a stormwater management permit only on finding the following:

(a) The proposed land disturbing activity complies with Section 5.10, Stormwater Management Standards, and with any applicable development approvals and permits; and

(b) All required erosion and sedimentation control permits associated with the proposed land disturbing activity have been issued by the North Carolina Department of Environmental Quality, as applicable.

D. RELIEF

(1) VARIANCE – ZONING

a. PURPOSE

The purpose of a zoning variance is to allow certain deviations from specified standards of this Ordinance when the landowner demonstrates that, owing to special conditions beyond the landowner's control (such as exceptional topographical conditions, narrowness, shallowness, or the shape of a specific parcel of land), a literal application of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest.

b. APPLICABILITY

1. The zoning variance procedure in this section may be used to vary the following standards:

(a) The standards for maximum height, maximum lot coverage, minimum required yards (setbacks), minimum lot area, and minimum lot width for each zoning district in Article 3: Zoning Districts, other than standards in Section 3.8.I, Watershed Protection Overlay (WPO) District (see Section 2.5.D(2), Variance – Watershed Protection); and

(b) The standards in:

1. Section 3.8.D, Floodplain Protection Overlay (FPO) District;
2. Numerical provisions in Article 5: Development Standards; and
3. Numerical provisions in Article 6: Subdivision Standards.

2. The following variances are not allowed:

(a) An increase in the development density (e.g., units per acre) beyond that allowed in a base zoning district;

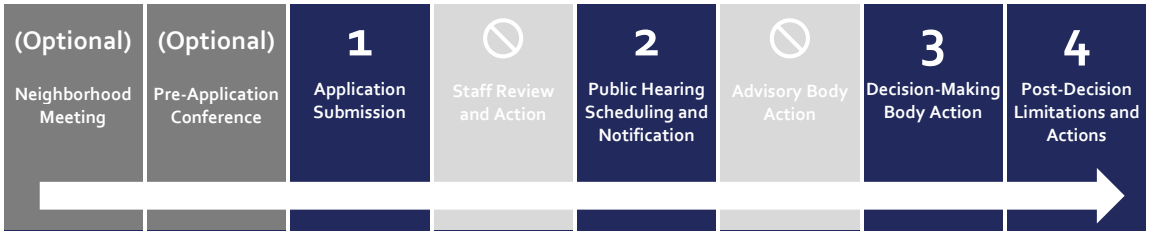
(b) An increase in the number of a particular type of sign beyond that allowed by Section 5.9, Sign Standards; and

(c) Permitting a use not allowed in a zoning district or having the effect of allowing a prohibited use or a prohibited sign.

c. VARIANCE – ZONING PROCEDURE

Figure 2.5.D(1)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to zoning variances. Subsections 1 through 4 below specify the required procedure for a zoning variance, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.D(1)c: Summary of Variance – Zoning Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D.

2. Public Hearing Scheduling and Notification

The Planning Director shall schedule public hearings and provide public notification in accordance with Section 2.4.F.

3. Decision-Making Body Action

(a) The Board of Adjustment shall hold a quasi-judicial public hearing on the application and make a decision in accordance with Section 2.4.H, Decision-Making Body Action, and Section 2.5.D(1)d, Variance – Zoning Review Standards. The Board's decision shall be one of the following:

1. Approve the application as submitted;
2. Approve the application subject to conditions of approval; or
3. Deny the application.

(b) Any conditions of approval must be reasonably related to the condition or circumstances that gives rise to the variance.

(c) The concurring vote of four-fifths of the Board shall be necessary to grant a variance in accordance with state law.

4. Post-Decision Limitations and Actions

(a) The post-decision limitations and actions in Section 2.4.I apply.

(b) If the Board of Adjustment grants a variance from requirements in Section 3.8.I, Watershed Protection Overlay (WPO) District, the Planning Director shall submit the record of the hearing to North Carolina Environmental Commission for review and action. The record of the hearing shall include, but not be limited to the following:

1. The variance application;
2. The hearing notices;

3. The evidence presented;

4. Motions, offers of proof, or objections to evidence and rulings on them;

5. Findings and exceptions; and

6. The action of the Board of Adjustment, including any conditions proposed.

(c) A variance shall run with the land; however, where a variance is a pre-requisite to another development approval or permit, the variance shall automatically expire and be null and void if the development approval or permit to which the variance was pre-requisite expires or otherwise becomes invalid.

d. VARIANCE – ZONING REVIEW STANDARDS

1. General

Subsections (a) and (b) below apply to all zoning variances except variances of the standards in Section 3.8.D, Floodplain Protection Overlay (FPO) District.

(a) The Board of Adjustment shall grant a variance on finding the applicant demonstrates all of the following:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

(b) The following factors do no constitute sufficient grounds for approval of a variance:

1. A request for a particular use that is expressly, or by inference, prohibited in the zoning district;

2. Hardships resulting from factors other than application of standards of this Ordinance;

3. The fact that land or a structure may be utilized more profitably or be more marketable with a variance;

4. The citing of other nonconforming or conforming uses of land or structures in the same or other zoning districts; or

5. Financial hardship.

2. Floodplain Overlay District

The Board of Adjustment shall grant a variance of the standards in Section 3.8.D, Floodplain Protection Overlay (FPO) District, only in accordance with Section 3.8.D(19), Variance Procedures.

3. Stormwater Management Standards

(a) The Board of Adjustment shall grant a variance of the standards in Section 5.10, Stormwater Management Standards, only in accordance with subsection 1 above, or if the Board finds the applicant demonstrates any of the following:

1. There is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing, and the proposed crossing or facility is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of stormwater control stormwater control measures ("SCMs"); or

2. There is a lack of practical alternatives for a stormwater management facility, a stormwater management pond, or a utility, including water, sewer, and gas construction and maintenance corridors, and the proposed facility, pond, or utility is located at least 15 feet landward of all perennial and intermittent surface waters and is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of SCM's; or

(b) For purposes of subsection (a) above, a lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration, or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters.

(2) VARIANCE – WATERSHED PROTECTION

a. PURPOSE

The purpose and intent of this section is to establish the procedure and standards for variances from the requirements in Section 3.8.I, Watershed Protection Overlay (WPO) District, and to distinguish between the role of the Watershed Review Board and the Planning and Zoning Commission in the review of major and minor variance applications. In addition to its duties as the Planning and Zoning Commission, the Planning and Zoning Commission shall also serve as the Watershed Review Board (see Section 3.8.I(10)).

b. APPLICABILITY

The watershed protection variance in this section may be used to vary the requirements in Section 3.8.I, Watershed Protection Overlay (WPO) District.

c. MINOR AND MAJOR VARIANCE DISTINGUISHED

1. Minor Variance

For the purposes of this section, a minor variance shall include applications seeking to vary any vegetated setback, density, or minimum lot size requirement in the WPO District by:

(a) Up to five percent for high density development; or

(b) Up to ten percent for all other development.

2. Major Variance

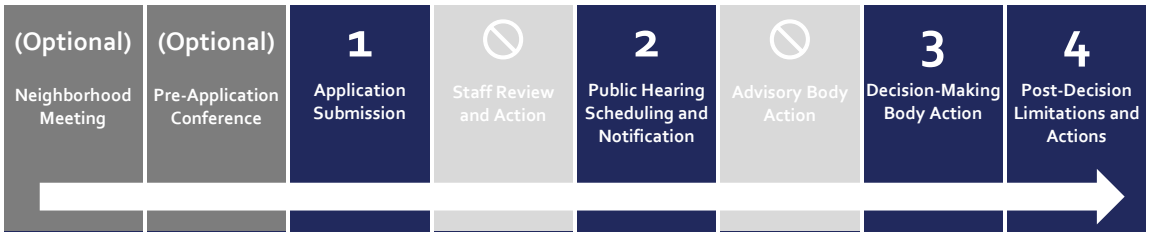
For the purposes of this section, applications seeking to vary minimum lot size or maximum lot coverage by more than the maximum percentages described in subsection (1) above or seeking to vary other standards in the WPO District are major variances. Major variances shall be reviewed by the North Carolina Environmental Management Commission (the "EMC") following receipt of a record of the hearing conducted by the Watershed Review Board on the

application. The EMC shall then prepare a decision that authorizes the Planning and Zoning Commission to issue a final decision on the application.

d. VARIANCE – WATERSHED PROTECTION PROCEDURE

Figure 2.5.D(2)d summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to variances. Subsections 1 through 4 below specify the required procedure for a variance, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.D(2)d: Summary of Variance – Watershed Protection Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D.

2. Public Hearing Scheduling and Notification

The Planning Director shall schedule public hearings and provide public notification in accordance with Section 2.4.F. In addition, notice shall be mailed by first class mail to all other local governments having watershed regulation jurisdiction within the particular watershed where the variance is requested and to each entity using that water supply for consumption.

3. Decision-Making Body Action

(a) The Planning and Zoning Commission shall hold a quasi-judicial public hearing on the application. If the application is for a minor variance, the Commission shall make a decision in accordance with Section 2.4.H, Decision-Making Body Action, and Section 2.5.D(2)e, Variance – Watershed Protection Review Standards. The Commission's decision shall be one of the following:

1. Approve the application as submitted;
2. Approve the application subject to conditions of approval; or
3. Deny the application.

(b) If the application is for a major variance, following its hearing on the application, the Planning and Zoning Commission shall make a decision in accordance with Section 2.5.D(2)e, Variance – Watershed Protection Review Standards, as to whether or not the Commission is in favor of granting the variance.

1. If the Commission decides in favor of granting the major variance, it shall submit a preliminary record of its hearing on the application to the EMC for review. The record of the hearing shall include but not be limited to: (1) the major variance application; (2) the hearing notices; (3) the evidence presented; (4) motions, offers of proof, and objections to evidence and rulings on them; (5) findings and exceptions; and (6) the action of the Commission, including any conditions proposed. If the EMC approves the major variance or approves the variance with conditions or stipulations added, the EMC will prepare a decision that authorizes the Commission to issue a final decision that includes any conditions or stipulations added by the EMC. After receiving such authorization, the Commission shall issue a final decision approving the major variance, subject to all conditions and stipulations in the EMC's decision. If the EMC

denies the major variance, it shall prepare a decision to be sent to the Commission. After receiving such decision, the Commission shall issue a final decision denying the major variance.

2. If the Commission decides against granting the major variance, that decision shall constitute denial of the application.

4. Post-Decision Limitations and Actions

(a) The post-decision limitations and actions in Section 2.4.I apply.

(b) An applicant may appeal a decision by the Planning and Zoning Commission or the EMC on a watershed protection variance application to Superior Court in accordance with state law.

(c) A variance shall run with the land; however, where a variance is a pre-requisite to another development approval or permit, the variance shall automatically expire and be null and void if the development approval or permit to which the variance was pre-requisite expires or otherwise becomes invalid.

e. VARIANCE – WATERSHED PROTECTION REVIEW STANDARDS

The Planning and Zoning Commission shall approve a minor variance, or decide in favor of granting a major variance, on finding the applicant demonstrates all of the following:

1. The variance complies with the standards for approving a zoning variance in Section 2.5.D(1)d.1, General;

2. The variance is in accordance with the general purpose and intent of this Ordinance and Section 3.8.I, Watershed Protection Overlay (WPO) District; and

3. If the variance is granted, the proposed development will ensure equal or better protection of waters of the state than the applicable state and local regulations, and that the stormwater controls will function in perpetuity.

(3) ADMINISTRATIVE ADJUSTMENT

a. PURPOSE

The purpose of administrative adjustments is to allow for administrative approval of minor variations, or adjustments, to certain numerical standards (i.e., setbacks) based on specific standards, with the intent of providing relief where application of a standard creates practical difficulties in allowing development that otherwise advances the purposes served by the standards and is compatible with the area and will not be detrimental to public health, safety, or welfare.

b. APPLICABILITY

1. An administrative adjustment may be requested and granted in accordance with the procedures and standards in this section for deviations of up to ten percent from numerical standards identified in Table 2.5.D(3)b: Standards for which Administrative Adjustments Allowed.

TABLE 2.5.D(3)b: Standards for which Administrative Adjustments Allowed [1]

STANDARD	
Minimum Lot Width and/or Depth	Perimeter buffer yard width in Section 5.3.G(3), Buffer Types Defined
Minimum Front Yard Depth	Building yard width in Section 5.3.H(4), Building Yards
Minimum Side Yard Depth	Street yard width in Section 5.3.I(2), Street Yard Landscaping Requirements
Minimum Rear Yard Depth	Section 5.7.D(2), Location of Off-Street Parking

TABLE 2.5.D(3)b: Standards for which Administrative Adjustments Allowed [1]

STANDARD	
Section 5.1.C(8), Driveways	Section 5.7.D(5), Building Façades
Section 5.1.C(9), Vehicle Stacking Spaces and Lanes	Section 5.7.E(3), Façade Articulation
Section 5.2.D(2)h, Large Parking Lots	Section 5.7.F(5), Off-Street Parking Location Standards
Section 5.2.E(2)f, Valet and Tandem Parking	Section 5.7.G(2), Façade Articulation
Section 5.2.F, Bicycle Parking Standards	
NOTES: [1] Administrative adjustments shall be limited to numerical standards in the sections identified in this table.	

2. An administrative adjustment may be requested either as a stand-alone application or in conjunction with other application(s).

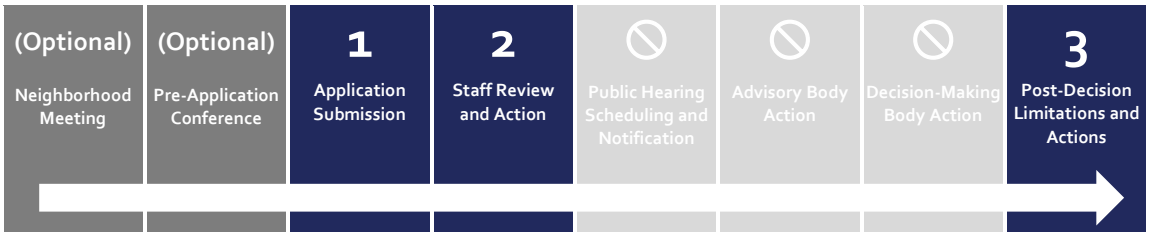
3. If an administrative adjustment application is submitted in conjunction with another application, it shall be reviewed and decided prior to the other application. For example, if an administrative adjustment application is submitted in conjunction with a site plan application (because the administrative adjustment is needed to achieve the plan for development in the site plan), the administrative adjustment application shall be reviewed and decided upon prior to review of the site plan application.

4. This section shall not limit the submission or approval of an alternative parking plan, alternative landscaping or buffer yard, security plan, or other alternative to generally applicable standards authorized by this Ordinance.

c. ADMINISTRATIVE ADJUSTMENT PROCEDURE

Figure 2.5.D(3)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to administrative adjustments. Subsections 1 through 3 below specify the required procedure for an administrative adjustment, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.D(3)c: Summary of Administrative Adjustment Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D.

2. Staff Review and Action

The Planning Director shall review the application and make a decision in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.D(3)d, Administrative Adjustment Review Standards.

3. Post Decision Limitations and Actions

(a) The post-decision limitations and actions in Section 2.4.I apply.

(b) Unless otherwise specified in the approval, approval of an administrative adjustment shall automatically expire one year after the date of approval if a building permit for the proposed development is not approved, or if a building permit is not required, if development has not commenced.

d. ADMINISTRATIVE ADJUSTMENT REVIEW STANDARDS

An application for an Administrative Adjustment shall be approved only on a finding the applicant demonstrates the following:

1. The proposed administrative adjustment does not exceed ten percent of a standard identified in Table 2.5.D(3)b: Standards for which Administrative Adjustments Allowed;

2. The proposed administrative adjustment meets at least one of the following requirements:

(a) Is required to compensate for some unusual aspect of the development site;

(b) Supports an objective from the purpose statements of the zoning district where the adjustment is proposed to be located;

(c) Proposes to protect sensitive natural resources, protect water source quality, or manage water source demand; or

(d) Proposes to save healthy existing trees;

3. The proposed administrative adjustment is consistent with the character of development in the surrounding area, and will not result in incompatible uses or development;

4. Any adverse impacts resulting from the proposed administrative adjustment will be mitigated, to the maximum extent practicable; and

5. The proposed administrative adjustment will not substantially interfere with the convenient and enjoyable use and development of adjacent lands, and will not pose a danger to the public health or safety.

(4) APPEAL OF ADMINISTRATIVE DECISION

a. APPLICABILITY

Any person who has standing under N.C.G.S. Section 160D-1402 or the City may appeal a decision made by the Planning Director or Director of Engineering in carrying out a power or duty granted by this Ordinance, including any final and binding order, requirement, or determination, to the Board of Adjustment in accordance with the procedures and standards in this section and state law.

b. APPEAL OF ADMINISTRATIVE DECISION PROCEDURE

Figure 2.5.D(4) summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to appeals of administrative decisions. Subsections 1 through 4 below specify the required procedure for an appeal of an administrative decision, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.D(4): Summary of Appeal from Administrative Decision Procedure



1. Notice of Appeal

The procedures and requirements in Section 2.4.D, Application Submission, and Section 2.4.E, Staff Review and Action, do not apply to appeals of administrative decisions. Instead, a Notice of Appeal shall be filed and processed in accordance with subsections (a) through (e) below .

(a) The appellant shall file a Notice of Appeal stating the grounds for the appeal with the City Clerk within 30 days of:

1. Receipt of written notice in accordance with Section 2.4.I(1), Notification of Decision; or

2. If the appellant did not receive written notice in accordance with Section 2.4.I(1), Notification of Decision, receipt of actual or constructive notice of the decision.

(b) In the absence of evidence to the contrary, notice given by first-class mail in accordance with subsection (a) above, is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

(c) The Planning Director or the Director of Engineering, as applicable, shall transmit all documents and exhibits constituting the record upon which the decision appealed from is taken to the Board of Adjustment, and shall provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

(d) An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from, subject to subsections 1 and 2 below and subsection (e) below.

1. The official who made the decision may certify to the Board of Adjustment, after the Notice of Appeal is filed, that because of the facts stated in an affidavit:

   a. A stay would cause imminent peril to life or property; or

   b. A stay would seriously interfere with enforcement of the ordinance because the violation is transitory in nature.

2. If a certification is made in accordance with subsection 1 above, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court.

(e) If enforcement proceedings are not stayed in accordance with subsection (c) above, the appellant may file with the Planning Director or Director of Engineering, as applicable, a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after the request is filed.

(f) Decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of applications for development approvals or permits for the property. In such cases, the appellant may request, and the Board may grant, a stay of a final decision of permit applications or building permits affected by the issue being appealed.

2. Public Hearing Scheduling and Notification

The Planning Director shall schedule public hearings and provide public notification in accordance with Section 2.4.F.

3. Decision-Making Body Action

(a) The Board of Adjustment shall hold a quasi-judicial public hearing and make a decision on the appeal, by vote of a majority of members, not counting vacant positions on the Board or members who are disqualified from voting, in accordance with Section 2.4.H, Decision-Making Body Action, and Section 2.5.D(4)c, Appeal of Administrative Decision Standards. The Board's decision shall be one of the following:

1. Affirm (wholly or partly) the decision appealed from;
2. Modify the decision appealed from; or
3. Reverse the decision appealed from.

(b) In making its decision, the Board of Adjustment shall have all the powers of the official who made the decision and shall make any order, requirement, decision, or determination that ought to be made.

(c) The Board of Adjustment's decision is effective upon filing the written decision with the secretary of the Board.

4. Post-Decision Limitations and Actions

(a) The post-decision limitations and actions in Section 2.4.I apply.

(b) Any appeal of the Board of Adjustment's decision shall be to Superior Court in accordance with state law.

c. APPEAL OF ADMINISTRATIVE DECISION STANDARDS

The Board of Adjustment shall modify or reverse the decision on appeal only if it finds, based upon competent, material, and substantial evidence in the record, that there has been a clear and demonstrable error, abuse of discretion, or denial of procedural due process in the application of the facts in the record to the applicable standards of this Ordinance, or as otherwise provided by state law.

E. OTHER PROCEDURES

(1) INTERPRETATION

a. PURPOSE

The purpose of the interpretation procedure in this section is to establish a uniform mechanism for rendering formal written interpretations of the text of this Ordinance and the boundaries or classifications on the Zoning Map.

b. APPLICABILITY

1. The procedure and standards in this section are required for the rendering of formal written interpretations of the text of this Ordinance and the boundaries or classifications on the Zoning map.

2. Except as set forth in subsection 2 below, the Planning Director is responsible for making interpretations of all provisions of this Ordinance, including, but not limited to:

(a) Interpretations of the text;

(b) Interpretations of the zoning district boundaries;

(c) Interpretations of whether an unlisted use in Table 4.2.B(5): Principal Use Table, is comparable to a listed use or not, and should be allowed in a zoning district or prohibited in that district; and

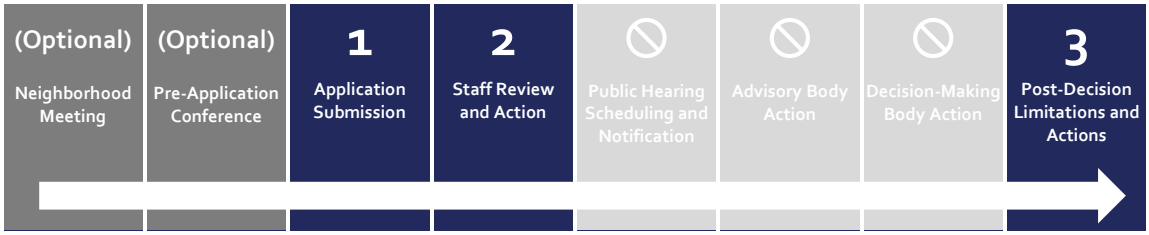
(d) Interpretations of compliance with a condition of approval.

3. The Director of Engineering is responsible for making interpretations of all provisions in Section 5.10, Stormwater Management Standards.

C. INTERPRETATION PROCEDURE

Figure 2.5.E(1)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to interpretations. Subsections 1 through 3 below specify the required procedure for an interpretation, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.E(1)c: Summary of Interpretation Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D, subject to the modifications in subsections 1 and 2 below.

1. An application for an interpretation may be initiated by the City Council, the Planning and Zoning Commission, any resident or landowner in the City, or any person having a contractual interest in land in the City.

2. Applications for interpretations of provisions in Section 5.10, Stormwater Management Standards, shall be submitted to the Director of Engineering, who shall make a determination of completeness and perform other administrative duties pertaining the application in lieu of the Planning Director. All other applications for interpretations shall be submitted to the Planning Director.

2. Staff Review and Action

(a) The Planning Director or the Director of Engineering, as applicable, shall distribute the application, review the application, and make an interpretation, which shall constitute the decision on the application, in accordance with Section 2.4.E, Staff Review and Action, and Section 2.5.E(1)d, Interpretation Standards.

(b) Prior to rendering an interpretation, the Planning Director or the Director of Engineering, as applicable, shall consult with the City Attorney and other affected City officials.

3. Post-Decision Limitations and Actions

(a) The post-decision limitations and actions in Section 2.4.I apply.

(b) A written interpretation shall be binding on subsequent decisions by the Planning Director, Director of Engineering, or other officials in applying the same provision of this Ordinance or the Zoning Map in the same circumstance, unless the interpretation is modified in accordance with this section, or the relevant text of this Ordinance or zoning district boundary is modified.

(c) The Planning Director shall maintain a record of written interpretations that shall be available in the Planning Department during normal business hours.

d. INTERPRETATION STANDARDS

1. Zoning Map Boundaries

Interpretation of zoning district boundaries on the Zoning Map shall be in accordance with the standards in Section 1.7.C, Interpretation of Zoning Map Boundaries.

2. Unspecified Uses

Interpretation of whether an unspecified use is similar to a use identified in Table 4.2.B(5): Principal Use Table, or is prohibited in a zoning district shall be based on Section 4.2.C(8), Interpretation of Unlisted Uses.

3. Text Provisions

Interpretation of the text and its application shall be based on the standards in Section 9.2, General Rules For Interpretation, and the following considerations:

(a) The clear and plain meaning of the provision's wording, as defined by the meaning and significance given specific terms used in the provision—as established in Article 10: Definitions, and by the common and accepted usage of the term;

(b) The intended purpose of the provision, as indicated by purpose statements, its context and consistency with surrounding and related provisions, and any legislative history related to its adoption; and

(c) The general purposes served by this Ordinance, as set forth in Section 1.3, General Purpose and Intent, and Section 1.5, Conformance with Adopted Plans.

(2) DENSITY AVERAGING CERTIFICATE

a. PURPOSE

The purpose of a density averaging certificate is to provide a uniform mechanism for allowing the averaging of development intensity over two noncontiguous lots in the Watershed Overlay District in accordance with the requirements in Section 3.8.I(6)a, Density Averaging.

b. APPLICABILITY

1. Except as otherwise provided in subsection 2 below, two noncontiguous lots located within the same watershed and classification (Critical Area, Protected Area, or Balance of Watershed) may be treated in tandem for purposes of determining compliance with Table 3.8.I(8): Maximum Development Intensity, in accordance with the procedure and standards in this section.

2. The following shall not be included in a density averaging certificate:

(a) Publicly held land, including dedicated drainage and open space, parkland, and other land obtained for watershed protection or otherwise protected from development;

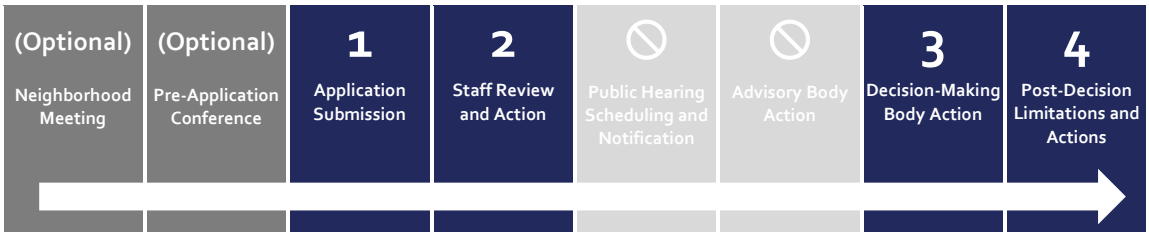
(b) Lots not located within the city's zoning jurisdiction; or

(c) Lots for which a watershed protection variance has been granted or would be required in accordance with Section 2.5.D(2), Variance – Watershed Protection.

c. DENSITY AVERAGING CERTIFICATE PROCEDURE

Figure 2.5.E(2)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to Density Averaging Certificates. Subsections 1 through 4 below specify the required procedure for a Density Averaging Certificate, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.E(2)c: Summary of Density Averaging Certificate Procedure



1. **Application Submission**

   Applications shall be submitted in accordance with Section 2.4.D. The application shall include a development plan showing the built-upon area and the protected area and containing all other information required by the LDSM.

2. **Staff Review and Action**

   The Planning Director shall review and make a recommendation on the application in accordance with Section 2.4.E.

3. **Decision-Making Body Hearing, Review, and Decision**

   The Planning and Zoning Commission shall review the application and the Planning Director's recommendation and shall make a decision on the application in accordance with Section 2.4.H and Section 2.5.E(2)d, Density Averaging Certificate Review Standards. The Commission's decision shall be one of the following:

   (a) Approve the application as submitted;

   (b) Approve the application subject to conditions of approval; or

   (c) Deny the application.

4. **Post-Decision Limitations and Actions**

   (a) The post-decision limitations and actions in Section 2.4.I apply.

   (b) If the application is approved:

   1. The Density Averaging Certificate shall be issued to the applicant.

   2. The area to remain undeveloped shall be recorded in the deed for the parcel to which it applies. The Density Averaging Certificate shall be recorded in the deed for each of the parcels in the parcel pair. Both the undeveloped area and the Density Averaging Certificate shall be noted on the plat that applies to each parcel.

   3. One copy of the Density Averaging Certificate shall be forwarded to the North Carolina Department of Environmental Quality, along with the approved plan, recorded plats for both parcels, a description of both parcels, and documentation reflecting the development restrictions to the paired parcels.

d. DENSITY AVERAGING CERTIFICATE REVIEW STANDARDS

The Planning and Zoning Commission shall approve a Density Averaging Certificate application only on making written findings supported by appropriate calculations and documentation that the paired parcel averaged-density development plan as a whole conforms to the intent and requirements of Section 3.8.I, Watershed Protection Overlay (WPO) District, including Section 3.8.I(6)a, Density Averaging, and that the proposed agreement assures protection of the public interest.

(3) SPECIAL INTENSITY ALLOCATION

a. PURPOSE

The purpose of this section is to establish a uniform mechanism for allocating allowable increased built upon area within specified watershed districts in accordance with Section 3.8.I(9)b.2, Special Intensity Allocation (SIA).

b. APPLICABILITY

1. Notwithstanding the maximum development intensity set forth in Table 3.8.I(8): Maximum Development Intensity, new nonresidential development in the following districts may be established with up to 70 percent of built-upon area when approved as a Special Intensity Allocation in accordance with the procedure and standards in this section:

(a) Lake Concord WS-IV Protected Area;

(b) Lake Fisher WS-IV Protected Area; and

(c) Kannapolis Lake WS-III Balance of Watershed.

2. The Planning Director shall maintain a record of the total area allocated by Special Intensity Allocations within each district, which shall not exceed the total area eligible for allocation set forth in Table 2.5.E(3)b.2, Maximum Allocation Area.

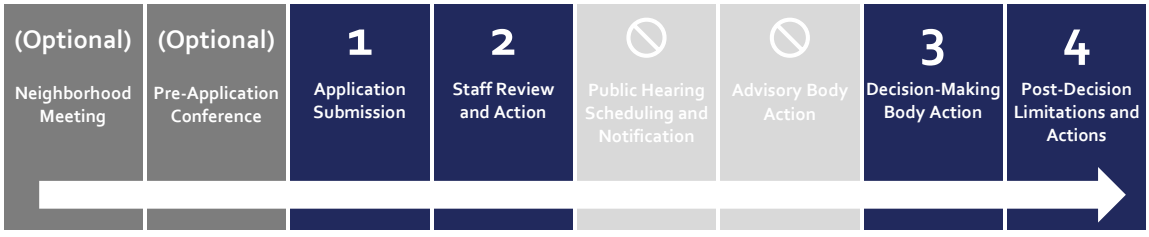
Table 2.5.E(3)b.2: Maximum Allocation Area

DISTRICT	MAXIMUM TOTAL AREA ELIGIBLE FOR ALLOCATION
Lake Concord WS-IV Protected Area	192.90 acres
Lake Fisher WS-IV Protected Area	152.64 acres
Kannapolis Lake WS-III Balance of Watershed	46.70 acres

c. SPECIAL INTENSITY ALLOCATION PROCEDURE

Figure 2.5.E(3)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to Special Intensity Allocations. Subsections 1 through 4 below specify the required procedure for a Special Intensity Allocation, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.E(3)c: Summary of Special Intensity Allocation Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D. The application shall include a development plan prepared by a professional engineer and containing all other information required by the LDSM.

2. Staff Review and Action

The Planning Director shall review and make a recommendation on the application in accordance with Section 2.4.E.

3. Decision-Making Body Hearing, Review, and Decision

The Planning and Zoning Commission shall review the application and the Planning Director's recommendation and shall make a decision on the application in accordance with Section 2.4.H and Section 2.5.E(3)d, Special Intensity Allocation Review Standards. The Commission's decision shall be one of the following:

(a) Approve the application as submitted;

(b) Approve the application subject to conditions of approval; or

(c) Deny the application.

4. Post-Decision Limitations and Actions

(a) The post-decision limitations and actions in Section 2.4.I apply.

(b) A Special Intensity Allocation shall automatically expire if the development approval or permit for the development identified in the Special Intensity Allocation application expires or otherwise becomes invalid. If the Special Intensity Allocation expires, the Planning Director shall deduct the area subject to the expired Allocation from the record of the total area allocated.

d. SPECIAL INTENSITY ALLOCATION REVIEW STANDARDS

The Planning and Zoning Commission shall approve an application for a Special Intensity Allocation on making all of the following determinations:

1. The proposed development complies with the requirements in Section 3.8.I(9)b.2, Special Intensity Allocation (SIA);

2. The proposed Special Intensity Allocation does not exceed the area available for allocation in the watershed district based on Table 2.5.E(3)b.2 above, and the record of the total area allocated by Special Intensity Allocations within each district maintained by the Planning Director;

3. The property subject to the Special Intensity Allocation application is classified within a single base zoning district; and

4. The proposed built-upon area does not exceed the built-upon limitations of the underlying zoning district.

(4) CERTIFICATE OF NONCONFORMITY ADJUSTMENT

a. PURPOSE

The purpose of a certificate of nonconformity adjustment is to allow a new nonconforming use to replace an existing nonconforming use or an expansion of or addition to a nonconforming structure, when certain standards are met.

b. APPLICABILITY

Approval of a certificate of nonconformity adjustment in accordance with the procedure and standards in this section is required prior to any of the following:

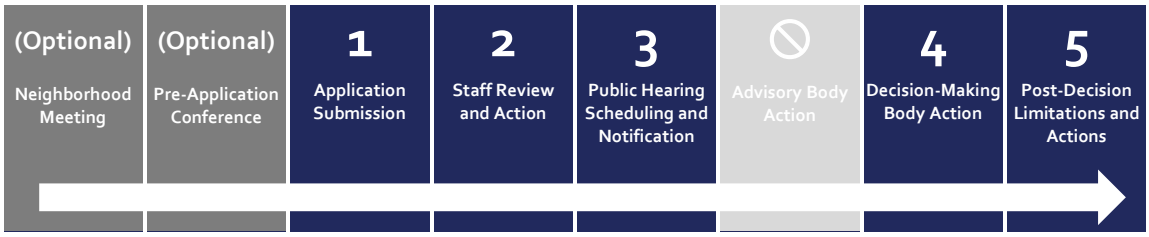
1. A change of use of a structure or land from one nonconforming use to another nonconforming use; or

2. An expansion of or addition to structural parts of a nonconforming structure.

c. CERTIFICATE OF NONCONFORMITY ADJUSTMENT PROCEDURE

Figure 2.5.E(4)c summarizes the requirements and procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to a certificate of nonconformity adjustment. Subsections 1 through 5 below specify the required procedure for a certificate of nonconformity adjustment, including applicable additions or modifications to the standard application requirements and procedures.

Figure 2.5.E(4)c: Summary of Certificate of Nonconformity Adjustment Procedure



1. Application Submission

Applications shall be submitted in accordance with Section 2.4.D.

2. Staff Review and Action

The Planning Director shall review and make a recommendation on the application in accordance with Section 2.4.E.

3. Scheduling of Public Hearing and Public Notification

The Planning Director shall schedule a public hearing and provide public notification in accordance with Section 2.4.F.

4. Decision-Making Body Hearing, Review, and Decision

The Board of Adjustment shall hold a hearing on the application and make a decision in accordance with Section 2.4.H, Decision-Making Body Action, and Section 2.5.E(4)d, Certificate of Nonconformity Adjustment Standards The Board's decision shall be one of the following:

(a) Approve the application as submitted;

(b) Approve the application subject to conditions of approval; or

(c) Deny the application.

5. Post-Decision Limitations and Actions

The post-decision limitations and actions in Section 2.4.I apply.

d. CERTIFICATE OF NONCONFORMITY ADJUSTMENT STANDARDS

The Board of Adjustment shall approve a certificate of nonconformity adjustment only on finding the following:

1. The nonconformity as proposed will not:

(a) Create noise above and beyond levels considered normal to the area;

(b) Generate or have the potential to generate a significantly higher volume of traffic than surrounding land use;

(c) Detract from the prevailing property values; or

(d) Detract from the overall aesthetic character of the area;

2. If a change from an existing nonconforming use to another nonconforming use is proposed, the proposed nonconforming use more closely approximates permitted uses in the zoning district where

it is proposed to be located than the existing nonconforming use, with respect to scale and intensity of use; and

3. If an expansion of or addition to structural parts of a nonconforming structure is proposed, the expansion or addition complies with all applicable zoning district dimensional regulations.