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ADMINISTRATION

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CHAPTER 2.

ADMINISTRATION

2.1. DEVELOPMENT REVIEW SUMMARY TABLE

Table 2.1, Development Review Procedures, identifies the advisory and decision-making bodies responsible for making recommendations or decisions on development applications reviewed under this Ordinance. The table also identifies the development applications requiring a public hearing.

TABLE 2.1: DEVELOPMENT REVIEW PROCEDURES					
D = DECIDE R = RECOMMENDATION A = APPEAL <> = PUBLIC HEARING					
PROCEDURE	ADVISORY AND DECISION-MAKING BODIES				
	BOARD OF COMMISSIONERS	PLANNING BOARD	BOARD OF ADJUSTMENT	TECHNICAL REVIEW COMMITTEE	PLANNING DIRECTOR
AMENDMENTS					
Text Amendment	<D>	R			R
Zoning Map Amendment	<D>	R			R
Conditional Rezoning	<D>	R		R	
Planned Development	<D>	R		R	
DISCRETIONARY REVIEW					
Use Permit	<D>			R	
SITE DEVELOPMENT					
Site Plan					
Major Site Plan				D	
Minor Site Plan					D
Subdivision					
Major Subdivision					
Preliminary Plat, Type I				D	
Preliminary Plat, Type II	<D>			R	
Construction Drawings				D	
Final Plat				D	
Minor Subdivision					D
PERMITS					
Zoning Compliance Permit					D
Sign Permit					D
Temporary Use Permit				R	D
Floodplain Development Permit					D
Clear-Cutting Permit					D

TABLE 2.1: DEVELOPMENT REVIEW PROCEDURES					
D = DECIDE R = RECOMMENDATION A = APPEAL <> = PUBLIC HEARING					
PROCEDURE	ADVISORY AND DECISION-MAKING BODIES				
	BOARD OF COMMISSIONERS	PLANNING BOARD	BOARD OF ADJUSTMENT	TECHNICAL REVIEW COMMITTEE	PLANNING DIRECTOR
RELIEF					
Variance	/	/	<D>	/	R
Administrative Adjustment	/	/	/	/	D
Interpretation	/	/	/	/	D
Appeal [1]	/	/	<D>	/	/
DEVELOPMENT AGREEMENT					
Development Agreement	<D>	<R>	/	R	/
NOTES:					
[1] Appeals of decisions by the Board of Commissioners or the Board of Adjustment are heard by the Superior Court for Currituck County.					

2.2. ADVISORY AND DECISION-MAKING BODIES

2.2.1. Generally

- A.** The following bodies and county staff have powers and responsibilities in administering and reviewing development applications under this Ordinance:
 - (1)** Board of Commissioners;
 - (2)** Planning Board;
 - (3)** Board of Adjustment;
 - (4)** Technical Review Committee; and
 - (5)** Planning Director.
- B.** In addition to the advisory and decision-making bodies identified in this section, there are other county agencies departments, or officials who may review and comment on specific application types during the review process as specified in the Administrative Manual.

2.2.2. Board of Commissioners

A. Powers and Duties

To exercise the authority granted the Board of Commissioners by state law, the Board shall have the following powers and duties under this Ordinance:

- (1) Application Review and Decision**
To initiate, review, and decide applications for the following:
 - (a)** Text amendments;
 - (b)** Zoning map amendments;
 - (c)** Conditional rezonings;

- (d) Planned developments;
 - (e) Use permits;
 - (f) Type II preliminary plats (for major subdivisions); and
 - (g) Development agreements.
- (2) Schedule of Fees and Civil Penalties**
To approve, by resolution, a schedule of fees governing applications for permits and other development approvals reviewed under this Ordinance and civil penalties for violations of this Ordinance.
- (3) Other Actions**
To take any other action not delegated to the Planning Board, Board of Adjustment, Technical Review Committee, Planning Director, or County Engineering, as the Board of Commissioners may deem desirable and necessary to implement the provisions of this Ordinance.

2.2.3. Planning Board

The Planning Board is hereby established in accordance with Section 153A-321 of the North Carolina General Statutes.

A. Powers and Duties

The Planning Board shall have the following powers and duties:

- (1) Recommendation Authority**
To review and make recommendations to the Board of Commissioners on the following:
- (a) Text amendments;
 - (b) Zoning map amendments.
 - (c) Conditional rezonings;
 - (d) Planned developments; and
 - (e) Development agreements;
- (2) Make Studies and Recommendations**
To make studies and recommendations for the Board of Commissioners regarding growth, development, and redevelopment in the county.
- (3) Other Powers and Duties**
To carry out any other powers and duties delegated to it by the Board of Commissioners, consistent with state law.

B. Membership, Appointment, and Terms of Office

- (1) General**
- (a) The Planning Board shall consist of a total of seven regular members appointed by the Board of Commissioners. Each County Commissioner may appoint one member from any electoral district in the county, two of which shall be at-large members.

- (b) Planning Board members shall reside within the county. A change in residence to a location outside the county shall constitute a resignation from the Planning Board, effective upon the date a replacement is appointed.
 - (c) Planning Board members shall be appointed for two-year, staggered terms, and may continue to serve until their successors are appointed.
 - (d) Vacancies occurring for reasons other than expiration of terms shall be filled for the period of the unexpired term only.
- (2) Chair and Vice-Chair**
- (a) At its first meeting in January of each year, the Planning Board shall elect a Chair and a Vice-Chair from among its members, each to serve a one-year term.
 - (b) The Chair shall preside over all meetings. The Vice-Chair shall preside over meetings in the absence of the Chair. If both the Chair and Vice-Chair are absent, the Planning Board shall vote to determine who shall serve as acting Chair for the meeting.

C. Staff

The Planning Director shall serve as the professional staff liaison to the Planning Board and provide it with administrative support.

D. Meetings**(1) Schedule**

The Planning Board shall hold at least one regular meeting in each month unless the Chair determines that there are no agenda items for consideration.

(2) Official Record

(a) The Planning Board shall keep a record of its recommendations, transactions, findings, and determinations.

(b) The record shall be a public record.

(3) Publication of Notice

Notice of all Planning Board meetings shall be provided in accordance with state law and the public hearing requirements in Section 2.3.6, Public Hearing Scheduling and Public Notification.

(4) Open to the Public

All meetings shall be open to the public.

E. Quorum and Necessary Vote**(1) Quorum**

Five members of the Planning Board shall constitute a quorum. No official business of the Planning Board shall be conducted without a quorum present.

(2) Voting

An affirmative vote of a majority of members present constituting a quorum is required for all decisions of the Planning Board.

F. Removal from Office

Planning Board members may be removed by the Board of Commissioners at any time for:

- (1) Failure to attend three consecutive meetings;
- (2) Failure to attend 30 percent or more of the meetings within any 12-month period; or
- (3) Any other good cause related to performance of duties.

G. Rules of Procedure

The Planning Board shall adopt rules of procedure governing its procedures and operations. Copies shall be made available for public inspection in the Planning and Community Development Department.

H. Advisory Committees

- (1) The Board of Commissioners may appoint one or more individuals to sit as an advisory committee and assist the Planning Board in carrying out its planning responsibilities with respect to a particular subject area.
- (2) Members of an advisory committee shall sit as non-voting members of the Planning Board when such issues are being considered.

2.2.4. Board of Adjustment

The Board of Adjustment is hereby established in accordance with Section 153A-345, of the North Carolina General Statutes.

A. Powers and Duties

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

(1) Application Review and Decision

To review and decide applications for:

- (a) Variances; and
- (b) Appeals of administrative decisions by the Planning Director or the Technical Review Committee.

(2) Other Powers and Duties

The Board of Adjustment is authorized by this Ordinance to carry out any other powers and duties delegated to it by the Board of Commissioners, consistent with state law.

B. Membership, Appointment, and Terms of Office

(1) General

- (a) The Board of Adjustment shall consist of five regular members and two alternate members appointed by the Board of Commissioners. Each County Commissioner may appoint one member from any

electoral district in the county, two of which shall be alternate members.

- (b) Regular members leaving the Board shall be replaced by existing alternate members; likewise, newly appointed members shall be assigned as alternate members, when practicable. In situations when this can not be met, seats shall be determined by the Board of Commissioners.
- (c) Board of Adjustment members shall reside within the county. A change in residence to a location outside the county shall constitute a resignation from the Board of Adjustment, effective upon the date a replacement is appointed.
- (d) An alternate member may sit in-lieu of a regular member upon recusal by a regular member and assignment by the Chair. When seated as a regular member, alternate members shall have the same powers and duties as the regular member they replace.
- (e) Board of Adjustment members shall be appointed for three-year, staggered terms. Members shall continue to serve until their successors are appointed.
- (f) Vacancies occurring for reasons other than expiration of terms shall be filled for the period of the unexpired term only.

(2) Chair and Vice-Chair

- (a) At its first meeting in January of each year, the Board of Adjustment shall elect a Chair and a Vice-Chair from among its members, each to serve a one-year term.
- (b) The Chair shall preside over all board meetings. The Vice-Chair shall preside over board meetings in the absence of the Chair. If both the Chair and Vice-Chair are absent, the Board of Adjustment shall vote to determine who shall serve as Chair for the meeting.

C. Staff

The Planning Director shall serve as the professional staff liaison to the Board of Adjustment and provide it with administrative support.

D. Meetings

(1) Schedule

The Board of Adjustment shall hold at least one regular meeting in each month unless the Chair determines that there are no agenda items for consideration.

(2) Official Record

- (a) The Board of Adjustment shall keep a record of its recommendations, transactions, findings, and determinations.
- (b) The record shall be a public record.

(3) Publication of Notice

Publication of notice of all Board of Adjustment meetings shall be provided in accordance with state law and the public hearing requirements in Section 2.3.6, Public Hearing Scheduling and Public Notification.

(4) Open to the Public

All meetings shall be open to the public.

E. Quorum and Necessary Vote

(1) Quorum

Four members of the Board of Adjustment shall constitute a quorum. No official business of the Board shall be conducted without a quorum present.

(2) Voting

(a) The concurring vote of four-fifths (4/5) of the Board of Adjustment shall be necessary to grant any variance. A majority vote shall be required to decide an appeal application.

(b) Vacant positions and members who are disqualified from participating in or voting on a quasi-judicial matter in accordance with the North Carolina General Statutes shall not be considered members of the board if there are no qualified alternate members available to replace disqualified members.

F. Removal from Office

(1) Board of Adjustment members may be removed by the Board of Commissioners at any time for:

(a) Failure to attend three consecutive meetings;

(b) Failure to attend 30 percent or more of the meetings within any 12-month period; or

(c) Any other good cause related to performance of duties.

(2) Alternate members may be removed for repeated failure to attend or participate in meetings.

(3) Upon request of the member proposed for removal, the Board of Commissioners shall hold a hearing on the removal and provide the member an opportunity to respond to the request for removal before it becomes effective.

G. Rules of Procedure

The Board of Adjustment shall adopt rules of procedure governing its procedures and operations. Copies shall be made available for public inspection in the Planning and Community Development Department.

2.2.5. Technical Review Committee

The Technical Review Committee (TRC) is hereby established.

A. Powers and Duties

The TRC shall have the following powers and duties:

(1) Application Review and Decision

To review and decide applications for the following:

(a) Major site plans;

(b) Type I preliminary plats (for major subdivisions);

- (c) Construction drawings (for major subdivisions); and
- (d) Final plats (for major subdivisions).

(2) Recommendation Authority

To review and make recommendations on the following:

- (a) Conditional rezonings;
- (b) Planned developments;
- (c) Use permits;
- (d) Type II preliminary plats (for major subdivisions);
- (e) Temporary use permits; and
- (f) Development agreements.

(3) Additional Duties

The TRC shall have the following additional duties:

- (a) Participate in pre-application conferences;
- (b) Provide its expertise and technical assistance to the Planning Director in compiling and maintaining an Administrative Manual and in establishing application content requirements and a submission schedule for review of applications and appeals; and
- (c) Provide its expertise and technical assistance to the county's other decision-making bodies, upon request.

B. Membership and Appointment

(1) The TRC shall consist of the following county departments or officials, and agencies involved with development review:

- (a) Planning and Community Development;
- (b) Engineering;
- (c) Public Utilities;
- (d) Fire-Emergency Medical Services;
- (e) Soil and Water Conservation;
- (f) Chief Building Inspector; and
- (g) Albemarle Regional Health Services.

(2) Representatives from other county departments and from non-county regulatory agencies and service providers generally involved with development review (such as the North Carolina Department of Transportation and the School Board) may serve as voting members of the TRC. The Chair may request attendance by representatives of other local or state agencies, where appropriate, for an adequate review of an application.

C. Chair

The Planning Director shall serve as Chair of the TRC, and shall schedule committee meetings, coordinate the committee's activities, preside over committee meetings, prepare committee reports, and serve as liaison to the departments and agencies involved for clarification of issues and resolution of conflicts.

D. Meetings

The TRC shall establish a regular meeting schedule and meet frequently enough to take action as expeditiously as practicable on matters before it. The Planning Director may invite applicants to attend TRC meetings.

2.2.6. Planning Director

The Planning Director shall have the following powers and duties:

A. Powers and Duties

(1) Application Review and Decision

To review and decide applications for the following:

- (a)** Minor site plans;
- (b)** Minor subdivisions;
- (c)** Zoning compliance permits;
- (d)** Sign permits;
- (e)** Temporary use permits;
- (f)** Floodplain development permits;
- (g)** Clear-cutting permits;
- (h)** Administrative adjustments; and
- (i)** Interpretations.

(2) Recommendation Authority

To review and make recommendations on applications for the following:

- (a)** Text amendments;
- (b)** Zoning map amendments; and
- (c)** Variances.

(3) Floodplain Administrator

The Planning Director shall serve as the Floodplain Administrator, and shall perform the following duties:

- (a)** Review all floodplain development applications for receipt of all necessary State and Federal permits and issue floodplain development permits for all proposed development within special flood hazard areas.
- (b)** Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
- (c)** Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (d)** Prevent encroachments into floodways and non-encroachment areas unless the certification and flood damage prevention provisions of Section 7.4, Flood Damage Prevention, are met.

- (e) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures in accordance with Section 7.4.5, Flood Certificates.
- (f) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and public utilities have been floodproofed, in accordance with the standards in Section 7.4.5, Flood Certificates
- (g) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Section 7.4.5, Flood Certificates.
- (h) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Section 7.4.5, Flood Certificates, and Section 7.4.6, Standards.
- (i) Interpret the exact location of boundaries of the special flood hazard areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary may appeal the interpretation in accordance with Section 2.4.17, Appeal.
- (j) When base flood elevation data has not been provided in accordance with the standards of Section 7.4, Flood Damage Prevention, obtain, review, and reasonably utilize any base flood elevation data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Section 7.4.6 E, Standards for Riverine Floodplains without Established Floodways or Non-encroachment Area, in order to administer the standards of this ordinance.
- (k) When base flood elevation data is provided but no floodway or non-encroachment area data has been provided in accordance with the standards of Section 7.4, Flood Damage Prevention, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the standards of this ordinance.
- (l) Permanently maintain all records that pertain to the administration of the flood damage prevention provisions and make these records available for public inspection, except for any information protected by the Privacy Act of 1974.
- (m) Make on-site inspections of work in progress, issue stop-work orders, or revoke floodplain development permits, as required.
- (n) Make periodic inspections throughout the special flood hazard area.
- (o) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM, Letters of Map Change, and other official flood maps and studies.
- (p) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

(4) Additional Duties

The Planning Director shall have the following additional duties:

- (a)** Establish application content requirements and a submission schedule for review of applications and appeals;
- (b)** Compile and maintain an Administrative Manual;
- (c)** Conduct pre-application conferences in accordance with Section 2.3.2, Pre-Application Conference.
- (d)** Review applications and submit staff reports to advisory and decision-making bodies;
- (e)** Maintain the Official Zoning Map and related materials;
- (f)** Provide expertise and technical assistance to the county's other review and decision-making bodies, upon request;
- (g)** Maintain a record of all permits and approvals on file, and make copies available upon request;
- (h)** Enforce this Ordinance in accordance with Chapter 9: Enforcement; and
- (i)** Keep copies of all applications on file.

2.3. STANDARD PROCEDURES**2.3.1. General**

- A.** This section describes the standard procedural steps and other rules that are generally applicable to development applications reviewed under this Ordinance, unless otherwise expressly exempted or alternative procedures are specified in Section 2.4, Specific Review Procedures. The procedural flow charts in Section 2.4, Specific Review Procedures, generally depict the procedural steps that apply to the review of the particular type of development application.
- B.** The county has prepared an Administrative Manual that includes information and requirements for persons submitting applications for development review under the UDO. The manual includes application submittal requirements, review schedules, and additional details on application review procedures.

2.3.2. Pre-Application Conference**A. Purpose**

The purpose of a pre-application conference is to provide an opportunity for the applicant to determine the submittal requirements and the procedures and standards applicable to an anticipated development application. A pre-application conference is also intended to provide an opportunity for county 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 in this Ordinance.

B. Applicability**(1) Pre-Application Conference Required**

A pre-application conference between the applicant and the Planning Director shall be held before submittal of the following applications:

SECTION 2.3: STANDARD PROCEDURES

Subsection 2.3.2: Pre-Application Conference

- (a) Text amendments;
- (b) Zoning map amendments;
- (c) Conditional rezonings;
- (d) Planned developments;
- (e) Use permits;
- (f) Major site plans; and
- (g) Type I and type II preliminary plats for major subdivisions.

(2) Pre-Application Conference Optional

A pre-application conference may be requested and held at the applicant's option for any development application other than those listed in Section 2.3.2.B.1, Pre-application Conference Required.

C. Required Information Submitted Prior to Conference

- (1) Except for a pre-application conference associated with a text amendment and zoning map amendment, the applicant shall submit conceptual drawings that show the location, general layout, and main elements of the development to be proposed as part of the application.
- (2) Conceptual drawings shall be submitted to the Planning Director at least three business days before the pre-application conference.
- (3) Pre-application conferences related to an application for a text amendment shall include a written description of the nature and purpose of the text amendment.

D. 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 time and place of the pre-application conference.

E. Conference Determinations

County staff shall review the materials submitted by the potential applicant prior to the conference, and at the conference ask the applicant questions about the proposed application, as appropriate, and identify any concerns, problems, or other factors the applicant should consider about the application.

F. Written Summary

Within a reasonable period of time after completion of the pre-application conference, the Planning Director shall provide the potential applicant a brief written summary of the issues discussed at the pre-application conference.

G. Effect

The pre-application conference is intended as a means of facilitating the review process. Discussions held in accordance with this section are not binding on the county and do not constitute a formal review of an application. Processing times for review of development applications do not begin until a formal application is submitted and determined to be complete.

2.3.3. Community Meeting

A. Purpose

The purpose of the community meeting is to inform owners and occupants of nearby lands about a proposed development application that is going to be reviewed under this Ordinance, and to provide the applicant an opportunity to hear comments and concerns about the development proposal as a means of resolving conflicts and outstanding issues, where possible.

B. Favored Practice

Community meetings are encouraged as opportunities for informal communication between applicants and the owners and occupants of nearby lands, and other residents who may be affected by development proposals.

C. Applicability

(1) Community Meeting Mandatory

A community meeting is required before submittal of any of the following applications:

- (a) Zoning map amendments to establish a more intense base zoning district;
- (b) Conditional rezonings;
- (c) Planned developments;
- (d) Use permits; and
- (e) Type II preliminary plats (for major subdivision) of 50 lots or more.

(2) Community Meeting Optional

A community meeting is encouraged, but not required, before submittal of any other development application that is subject to a public hearing (see Table 2.3.6.A, Required Public Hearings).

D. Procedure

If a community meeting is held by the applicant, it shall comply with the following procedures:

(1) Time and Place

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.

(2) Notification

(a) Mailed Notice

The applicant shall mail notice of the meeting a minimum of ten days in advance of the meeting to the Planning Director and all persons to whom mailed notice of a public hearing on the development application is required by Section 2.3.6, Public Hearing Scheduling and Public Notification.

(b) Posted Notice

The applicant shall post notice of the community meeting on the land subject to the application for at least ten days before the date fixed for

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Subsection 2.3.4: Application Submittal and Acceptance

the meeting, in a form established by the Planning Director. Signs used for posted notice shall have a minimum size of six square feet per side.

(c) Notice Content

Notices shall identify the date, time, and place of the meeting and applicant contact information.

(3) Conduct of Meeting

At the meeting, the applicant shall explain the development proposal and application, inform attendees about the application review process, respond to questions and concerns neighbors raise about the application, and propose ways to resolve conflicts and concerns.

(4) Staff Attendance

County staff shall attend the meeting for the purpose of advising attendees about applicable provisions of this Ordinance and the land use plan, but shall not serve as facilitators or become involved in discussions about the development proposal.

(5) Written Summary of Community Meeting

The applicant shall prepare a written summary of the meeting that includes a list of meeting attendees, a summary of attendee comments, discuss issues 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.

(6) Response to Summary

Any person attending the community meeting may submit a written response to the applicant's meeting summary to the Planning Director within 30 days after the application is determined complete. The response may state their understanding of attendee comments, discuss issues related to the development proposal, and include any other information they deem appropriate. All written responses to the applicant's summary of the community meeting shall be transmitted to the applicant, included with the application materials, and made available for public inspection.

(7) Additional Meetings

The applicant shall hold additional meetings to explain revised development proposals and applications that result in significant substantive revisions explained at a previous community meeting.

2.3.4. Application Submittal and Acceptance

A. Authority to File Applications

(1) Unless expressly stated otherwise in this Ordinance, development applications reviewed under this Ordinance shall be submitted by:

(a) The owner, contract purchaser, or other person having a recognized property interest in the land on which development is proposed; or

(b) A person authorized to submit the application on behalf of the owner, contract purchaser, or other person having a recognized property interest in the land, as evidenced by a letter or document signed by

SECTION 2.3: STANDARD PROCEDURES

Subsection 2.3.4: Application Submittal and Acceptance

the owner, contract purchaser, or other person have a recognized interest in the land.

- (2)** If there are multiple owners, contract purchasers, or other persons authorized to submit the application, all such persons shall sign the application or a letter or document consenting to the application.

B. Application Content

The Planning Director is authorized to establish the requirements for the content and form for each type of specific development application reviewed under this Ordinance. These materials shall be placed in the Administrative Manual. The Planning Director may amend and update these standards as necessary to ensure effective and efficient review. The applicant bears the burden of ensuring that an application contains sufficient information to demonstrate compliance with all applicable standards.

C. Application Fees

The Board of Commissioners shall establish application fees, which shall be included in the Administrative Manual, and may amend and update those fees as necessary.

D. Submittal and Review Schedule

The Planning Director is authorized to and shall establish specific rules for the submittal and review schedule (including time frames for review) for the various types of development applications, which shall be included in the Administrative Manual. The Planning Director may amend and update these provisions as is determined necessary to ensure effective and efficient review under this Ordinance.

E. Application Submittal

Applications shall be submitted to the Planning Director in the form established by the Planning Director, along with the appropriate application fee.

F. Determination of Application Completeness

(1) Completeness Review

On receiving an application, the Planning Director shall, within ten business days, determine whether the application is complete or incomplete. A complete application is one that:

- (a)** Contains all information and materials established by the Planning Director in the Administrative Manual as required for submittal of the particular type of application;
- (b)** Is in the form established by the Planning Director as required for submittal of the particular type of application;
- (c)** Includes information in sufficient detail to evaluate the application to determine whether it complies with the appropriate review standards of this Ordinance; and
- (d)** Is accompanied by the fee established for the particular type of application.

(2) Application Incomplete

- (a)** On determining that the application is incomplete, the Planning Director shall notify the applicant of the submittal deficiencies. The applicant may correct the deficiencies and resubmit the application for completeness determination.

SECTION 2.3: STANDARD PROCEDURES**Subsection 2.3.4: Application Submittal and Acceptance**

- (b)** If the applicant fails to resubmit a complete application within 45 calendar days after being first notified of submittal deficiencies, the application shall be considered withdrawn.
 - (c)** Incomplete appeal applications shall be resubmitted and determined complete within the time specified in Section 2.4.17.B. Failure to do so will result in the interpretation, decision, or notice of violation being considered final.
 - (d)** The Planning Director shall not process an application for further review until it is determined to be complete.
- (3) Application Complete**
- On determining that the application is complete, the Planning Director shall accept the application for review in accordance with the procedures and standards of this Ordinance.

G. Application Revision

- (1)** An applicant may revise an application after receiving initial staff review comments on the application, or on requesting and receiving permission from the TRC or an advisory or decision-making body after that body has reviewed but not yet taken action on the application.
- (2)** Revisions shall be limited to changes that directly respond to specific requests or suggestions made by the staff, TRC, or the advisory or decision-making body, and shall not constitute significant substantive revisions to the development proposed in the application. For the purposes of this subsection, significant substantive revisions include, but are not limited to:
 - (a)** Increases in density;
 - (b)** Increases in building height by 10 percent or more;
 - (c)** Increases in lot coverage by 10 percent or more;
 - (d)** Increases in floor area by 20 percent or more;
 - (e)** Increases in the number of lots;
 - (f)** Relocation of lot lines by two feet or more;
 - (g)** Relocation of streets or driveways by two feet or more;
 - (h)** Decreases in tree protection zones or open space set-asides;
 - (i)** Decreases in the amount of landscaping provided by 10 percent or more;
 - (j)** Decreases in setbacks from sensitive environmental features of two or more feet; or
 - (k)** Changes to a more intense use type.
- (3)** Any other revisions (including significant substantive revisions) to the application may be submitted at any time during the review procedure, but the revised application shall be submitted to the Planning Director and reviewed as if it were a new application. The revised application submittal shall be subject to additional application fees to defray the additional costs of processing the revised application.

H. Application Withdrawal

- (1) An applicant may withdraw a development application at any time by submitting a letter of withdrawal to the Planning Director.
- (2) Applications withdrawn after required notice of any public hearing scheduled for the application shall be subject to limitations on the subsequent submittal of similar applications (in Section 2.3.16, Limitation on Subsequent Similar Application). Application fees shall not be refunded for withdrawn applications.

2.3.5. Staff Review and Action**A. Staff Review**

- (1) Applications shall be reviewed during the review cycle in place when the application is determined to be complete.
- (2) When an application is determined complete, it shall be distributed by the Planning Director to all appropriate staff and review agencies for review and comment, and the preparation of a staff report, if appropriate.
- (3) In considering the application, the Planning Director, the Technical Review Committee, or other county staff (as appropriate), shall review the application, relevant support material, and any comments or recommendations from other staff and review agencies to which the application was referred.
- (4) 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 2.3.4.G, Application Revision.

B. Staff Report and Recommendation

- (1) The Planning Director shall prepare a written staff report on any application subject to a public hearing. The staff report shall conclude whether the application complies with all applicable review standards of this Ordinance, and 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 2.4, Specific Review Procedures. The staff report may identify and recommend conditions of approval addressing how compliance deficiencies might be corrected and adverse effects of the development application might be mitigated.
- (2) A staff report is not required to be prepared for an application decided by the Planning Director or the Technical Review Committee, even though the Planning Director may choose to do so.

C. Distribution and Availability of Application and Staff Report

In cases where a development application is subject to review by an advisory or decision-making body, the Planning Director shall take all the following actions within a reasonable time period before the meeting or public hearing at which the application is scheduled for review:

SECTION 2.3: STANDARD PROCEDURES

Subsection 2.3.6: Public Hearing Scheduling and Public Notification

- (1)** Schedule and ensure any required notice of public hearing on the application (if appropriate) in accordance with Section 2.3.6, Public Hearing Scheduling and Public Notification;
- (2)** Transmit the application, related materials, and the staff report to the appropriate advisory or decision-making body;
- (3)** Transmit a copy of the staff report to the applicant; and
- (4)** Make the application, related materials, and the staff report available for examination by the public in the Planning and Community Development Department during normal business hours, and make copies of such materials available at a reasonable cost.

D. Applications Subject to Decision by Planning Director or Technical Review Committee

(1) Decision

If an application is subject to staff review and a final decision by the Planning Director or Technical Review Committee, as appropriate, the Planning Director or Technical Review Committee shall approve, approve subject to conditions, or disapprove the application, based on the review standards set forth in Section 2.4, Specific Review Procedures, for the particular type of application.

(2) Conditions of Approval

Conditions of approval shall be limited to those deemed necessary to ensure compliance with the standards of this Ordinance. They shall be related in both type and amount to the anticipated impacts of the proposed development on the public and surrounding development. All conditions of approval shall be expressly set forth in the development permit or approval.

2.3.6. Public Hearing Scheduling and Public Notification

A. Public Hearing Scheduling

(1) Application to be Scheduled for Meeting

When a development application is subject to a public hearing, the Planning Director shall ensure that the public hearing on the application is scheduled for a regularly scheduled meeting or a meeting specially called for that purpose by the advisory or decision-making body reviewing the application.

(2) Timing

A required public hearing on the application shall be scheduled so there is sufficient time for a staff report to be prepared and for the public notification requirements to be satisfied under state law.

(3) Required Public Hearings

Table 2.3.6.A, Required Public Hearings, identifies the advisory and decision-making bodies responsible for conducting a public hearing on a development application, where a public hearing is required, and the type of hearing (legislative public hearing or quasi-judicial public hearing) to be conducted.

SECTION 2.3: STANDARD PROCEDURES

Subsection 2.3.6: Public Hearing Scheduling and Public Notification

TABLE 2.3.6.A: REQUIRED PUBLIC HEARINGS
 L =Legislative Public Hearing Q = Quasi-Judicial Public Hearing

APPLICATION TYPE	BOARD OF COMMISSIONERS	BOARD OF ADJUSTMENT
Text Amendment [1]	L	/
Zoning Map Amendment [1]	L	/
Conditional Rezoning [1]	L	/
Planned Development [1]	L	/
Type II Preliminary Plat for Major Subdivision	Q	/
Use Permit	Q	/
Variance	/	Q
Appeal	/	Q
Development Agreement [1]	L	/

NOTES:
 [1] The Planning Board conducts a public meeting prior to consideration by the Board of Commissioners, but the public meeting with the Planning Board is not a public hearing.

B. Public Notification

All development applications shall comply with the North Carolina General Statutes, the provisions listed in Table 2.3.6.B, Public Hearing Notification Timing Requirements, the provisions of this section, and the other provisions of this Ordinance with regard to public notification.

(1) Notice Timing Requirements

Public notification of a public hearing on a development application shall be provided in accordance with the timing requirements in Table 2.3.6.B: Public Notification Timing Requirements, for the type of application and the type of notice. In computing the required time periods, the day the notice is published, mailed, or posted shall not be included, but the day of the hearing shall be included.

SECTION 2.3: STANDARD PROCEDURES

Subsection 2.3.6: Public Hearing Scheduling and Public Notification

TABLE 2.3.6.B: PUBLIC NOTIFICATION TIMING REQUIREMENTS

APPLICATION TYPE [1]	TYPES OF REQUIRED PUBLIC NOTICE		
	PUBLISHED NOTICE	MAILED NOTICE	POSTED NOTICE
Text Amendment [2]	Once a week for 2 successive calendar weeks, with first notice between 10 and 25 days before hearing		
Zoning Map Amendment [2]	Once a week for 2 successive calendar weeks, with first notice between 10 and 25 days before hearing	Between 10 and 25 days before hearing [3]	At least 10 days before hearing
Conditional Rezoning [2]	Once a week for 2 successive calendar weeks, with first notice between 10 and 25 days before hearing	Between 10 and 25 days before hearing	At least 10 days before hearing
Planned Development [2]	Once a week for 2 successive calendar weeks, with first notice between 10 and 25 days before hearing	Between 10 and 25 days before hearing	At least 10 days before hearing
Use Permit [2]	Once a week for 2 successive calendar weeks, with first notice between 10 and 25 days before hearing	Between 10 and 25 days before hearing	At least 10 days before hearing
Type II Preliminary Plat (for Major Subdivision)	Once a week for 2 successive calendar weeks, with first notice between 10 and 25 days before hearing	Between 10 and 25 days before hearing	
Variance		Between 10 and 25 days before hearing	At least 10 days before hearing
Administrative Adjustment		At least 10 days before a decision is rendered	
Appeal	Once a week for 2 successive calendar weeks, with first notice between 10 and 25 days before hearing	Between 10 and 25 days before hearing [4]	At least 10 days before hearing [4]
Development Agreement	Once a week for 2 successive calendar weeks, with first notice between 10 and 25 days before hearing	Between 10 and 25 days before hearing	At least 10 days before hearing

NOTES:

[1] Only those development application types listed here require public hearing notification. Public notification of public meetings held by the Planning Board is not required.

[2] Applications that would change the range of allowable uses within five miles of a military installation require mailed notice be delivered by certified mail to the military base commander between 10 and 25 days before the hearing.

[3] Mailed notice shall not be required when a zoning map amendment includes more than 50 lots or tracts, owned by at least 50 different landowners, provided the county publishes a notice (occupying at least one-half (1/2) of a newspaper page) showing the boundaries of the affected area in a newspaper of general circulation once a week for two successive calendar weeks, with the first notice published not less than ten days nor more than 25 days before the date fixed for the public hearing. Affected land owners residing outside the newspaper circulation area shall be notified via first class mail pursuant to Section 2.3.6, Public Hearing Scheduling and Public Notification.

[4] Mailed and posted notification are required only in cases where the appeal pertains to a specific parcel of land.

(2) Published Notice Requirements

- (a)** When the provisions of this Ordinance require that notice of a public hearing be published, the Planning Director shall publish a notice of the hearing once a week for two successive calendar weeks in a newspaper having general circulation in the county.
- (b)** The first time notice is published, it shall be not less than ten days nor more than 25 days before the date fixed for the hearing. In computing such period, the day of published notice shall not be included, but the day of the hearing shall be included.

SECTION 2.3: STANDARD PROCEDURES

Subsection 2.3.6: Public Hearing Scheduling and Public Notification

(3) Mailed Notice Requirements

- (a)** Except for community meetings, when the provisions of this Ordinance require mailed notice, the Planning Director shall be responsible for preparing and mailing the written notice. Notice shall be mailed to:
 - (i)** The owners of the land subject to the application;
 - (ii)** The applicant, if different from the land owner;
 - (iii)** The owners (shown as primary and secondary on the county tax listing) of land within 200 feet of the property lines of land subject to the application (including owners of land located outside the county) whose address is known by reference to the latest ad valorem tax records; and
 - (iv)** Commanders of military bases located within five miles of the subject application when the development proposal affects the type of uses allowed.
- (b)** Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The content and form of the notice shall comply with subsection 2.3.6.B.5, Notice Content, and the North Carolina General Statutes.
- (c)** The Planning Director shall prepare an affidavit affirming that notice meeting these standards was mailed. The affidavit shall be conclusive that notice has been given in compliance with the terms of this section. The affidavit shall be included in the support materials of the application.
- (d)** A copy of the mailed notice shall be maintained in the office of the Planning Director for public inspection during normal business hours.

(4) Posted Notice Requirements

Except for community meetings, when the provisions of this Ordinance require that notice be posted by the applicant on the land subject to the application, posted notice shall be made by the Planning Director, and shall comply with the following:

- (a)** A sign shall be placed in a conspicuous location so as to be clearly visible to the traveled portion of the respective street. Where the land subject to the notice does not have frontage on a public street, the sign shall be erected on the nearest street right-of-way with an attached notation generally indicating the direction and distance to the land subject to the application.
- (b)** The content and form of the notice shall comply the North Carolina General Statutes.

(5) Notice Content

All notices for public hearings provided by mail (mailed notice), or publication (publishing in a newspaper of general circulation in the county) shall:

- (a)** Identify the date, time, and place of the public hearing;

SECTION 2.3: STANDARD PROCEDURES**Subsection 2.3.7: Deferral of Application**

- (b)** Describe the land involved by street address or by its relationship to a fronting street and the nearest cross street (if applicable), and its size (except posted notice);
 - (c)** Describe the nature and scope of the proposed development or action; and
 - (d)** State that substantial changes in the proposal may be made following the public hearing.
- (6) Constructive Notice**
- (a)** Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt is made to comply with applicable notice requirements. Minor defects in notice may include, but are not limited to:
 - (i)** Errors in a legal description; or
 - (ii)** Typographical or grammatical errors that do not impede communication of the notice to affected parties.
 - (b)** Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a public hearing and the location of the subject property(ies) shall be strictly adhered to.
 - (c)** If questions arise at the hearing regarding the adequacy of notice, the body conducting the hearing shall direct the Planning Director to make a formal finding as to whether there is substantial compliance with the notice requirements of this Ordinance, and such findings shall be made available to the decision-making body before final action on the request.

2.3.7. Deferral of Application

An applicant may request that an advisory or decision-making body's consideration of a development application at public hearing be deferred by submitting a written request for deferral to the Planning Director.

A. Planning Director Action

If public notification has not been provided in accordance with this Ordinance, the Planning Director shall consider and decide the deferral request. A request for deferral shall be approved only in cases where the applicant needs additional time to prepare evidence, secure approval from outside agencies, or bring the application into closer alignment with the Land Use Plan or the requirements of this Ordinance.

B. Advisory or Decision-Making Body Action

- (1)** If public notification has been provided in accordance with this Ordinance, the request for deferral shall be placed on the public hearing agenda of the advisory or decision-making body on the date the application is to be considered and acted upon by the body. The advisory or decision-making body may approve the request for deferral for good cause.

- (2) The applicant shall be responsible for any additional public notification expenses.

C. General Requirements

- (1) No more than one deferral may be granted.
- (2) The deferral shall not exceed six months in duration.
- (3) A second deferral request shall be considered as withdrawal of the application.

2.3.8. Public Hearing Procedures

If the development application is subject to a public hearing by an advisory or decision-making body, the advisory or decision-making body shall hold the public hearing in accordance with the following procedures.

A. Order of Proceedings

The order of proceedings at the hearing shall be as follows:

(1) Presentation of Staff Report

The Planning Director shall provide a brief introductory narrative and/or graphic description of the application and present the staff report and any review body findings and recommendations.

(2) Applicant Presentation

The applicant shall present any information the applicant deems appropriate.

(3) Public Comment

Public comments shall be heard. Any person other than the applicant or the applicant's representatives may be permitted to speak in accordance with the advisory or decision-making body's rules of procedure, or at their discretion, as appropriate, in support of or in opposition to the application. At the discretion of the person chairing the body conducting the hearing, such person may be granted additional time to speak when it is justified.

(4) Applicant Response to Comments

The applicant may respond to any comments, documents, or materials presented by the Planning Director or the public.

(5) Planning Director Response to Comments

The Planning Director may respond to any comments, documents, or materials presented by the applicant or the public.

(6) Close of Hearing

The person chairing the body conducting the hearing shall close the hearing.

B. Conduct of Public Hearing

(1) Burden of Proof or Persuasion

The burden of demonstrating that an application complies with applicable review and approval standards of this Ordinance is on the applicant.

(2) Rights of All Persons

Any person may appear at a public hearing and submit testimony, either individually or as a representative of a person or an organization. Each person

who appears at a public hearing shall be identified, state an address, and if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented. If the person states they represent an organization, the body conducting the hearing may request written evidence of that person's authority to speak on behalf of the organization in regard to the matter under consideration.

(3) Exclusion of Testimony

The body conducting the public hearing may exclude testimony that it finds to be irrelevant, immaterial, or unduly repetitious.

(4) Offers of Testimony

In the event any testimony is excluded as irrelevant, immaterial, or unduly repetitious, the person submitting such testimony shall have an opportunity at that hearing to offer such testimony to be entered into the record. Such offer shall be made at the public hearing.

(5) Continuance of Public Hearing

The body conducting the public hearing may, on its own motion or at the request of any person, continue the public hearing to a fixed date, time, and place. An applicant shall have the right to request and be granted one continuance. Any subsequent continuances requested by any party shall be granted at the discretion of the body conducting the public hearing only upon good cause shown. In no instance shall a continuance exceed six months.

(6) Recording

A record of the hearing shall be kept as follows.

(a) General

- (i)** The body conducting the public hearing shall record the public hearing.
- (ii)** The written or taped record of oral proceedings (including testimony and statements of personal opinions), the hearing minutes, all applications, exhibits and papers submitted in any proceeding before the review board, the staff report, and the recommendation or decision shall constitute the record.

(b) Public Record

All records of public hearings conducted by an advisory or decision-making body shall be a public record, and open for inspection at the offices of the Planning Director during normal business hours upon reasonable notice.

(c) Copy of Record

A copy of the public hearing record may be obtained by any person upon applying to the Planning Director and paying the cost for duplication of the record.

(7) Close of Hearing

Upon the completion of all testimony or public comment, the hearing shall be closed. No further direct or informal testimony, comments, or evidence shall

be provided or considered on the matter. The applicant may be asked questions or allowed to comment on proposed conditions.

C. Quasi-Judicial Public Hearings Distinguished

Quasi-judicial public hearings shall be subject to the standards in Section 2.3.8.B, Conduct of Public Hearing, and the following.

(1) Opportunity to Present Testimony and Evidence

Any affected party shall be afforded a reasonable opportunity to present testimony and evidence in support of or in opposition to the application, and to ask questions of the applicant and the applicant's representatives and county staff and county staff's representatives. At the discretion of the person chairing the body conducting the public hearing, an affected party may be granted an opportunity to ask questions of any other member of the public who has testified at the hearing.

(2) Not Bound by Rules of Evidence

Except as otherwise provided in the North Carolina General Statutes, the body conducting a quasi-judicial public hearing is not bound by the rules of evidence, or limited to consideration of evidence that is admissible in a court of law. The body may consider all testimony and evidence it deems competent and material to the application under consideration.

(3) Cross Examination

Any inquiry under cross-examination shall be limited to matters raised in the direct examination of the witness. No re-direct or re-cross shall be allowed unless requested by the applicant, an affected party, or the county—who shall state the desired area of inquiry—and the request is approved by the person chairing the body conducting the hearing. If re-direct or re-cross is allowed, it shall be limited to questions of the witness on issues raised in the cross-examination.

(4) Ex Parte Communication

Ex parte communication between an applicant or an affected party and a member of the board reviewing or making a decision on the application is prohibited, and must be disclosed during the public hearing, if it occurs.

(5) Conflict

In the event conflict between these standards and the standards in Section 2.3.8.B, Conduct of Public Hearing, these standards shall control during a quasi-judicial public hearing.

D. General Procedures and Findings Following Public Hearing

(1) Time

Any review body conducting the public hearing shall act in accord with any time limits established in this Ordinance or the body's own rules of procedure. Action shall be taken as promptly as possible in consideration of the interests of the applicant, the citizens of the county, and shall include a recommendation or decision of approval, approval with conditions, or disapproval (whichever is appropriate).

SECTION 2.3: STANDARD PROCEDURES

Subsection 2.3.9: Advisory Body Review and Recommendation

(2) Form of Decisions

The form of all decisions shall include at least the following elements:

- (a)** A summary of the information presented before the body.
- (b)** A statement of findings or other factors considered, whichever is appropriate, and a statement of the basis upon which such facts were applied with respect to the relevant review standards, if required by state law.
- (c)** A statement of a recommendation or decision of approval, approval with conditions or disapproval (whichever is appropriate).

2.3.9. Advisory Body Review and Recommendation

If an application is subject to a recommendation by an advisory body (Planning Board), the review body shall review and act on the application in accordance with the following procedures.

A. General

The advisory body shall hold any required public meeting in accordance with Section 2.3.8, Public Hearing Procedures, and consider the application, relevant support materials, staff report, and any public comments. It 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 2.4, Specific Review Procedures.

B. Clearly State Factors for Decision

The advisory body's recommendation shall clearly state the factors considered in making the recommendation and the basis or rationale for the recommended decision.

C. Timing

Unless deferred or subject to a continuance, the advisory body shall provide a recommendation on an application it reviews within two months from the date of its initial meeting to consider the application.

2.3.10. Decision-Making Body Review and Decision

If an application is subject to a final decision by the Board of Commissioners or Board of Adjustment, such decision-making body shall review and decide the application in accordance with the following procedures.

A. General

The decision-making body shall hold any required public hearing(s) in accordance with Section 2.3.8., Public Hearing Procedures, and consider the application, relevant support materials, staff report, 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 2.4, Specific Review Procedures.

B. Remand

The decision-making body may remand the application to the appropriate advisory body or county staff for further consideration of new information or specified issues or concerns by the staff or any advisory bodies, if appropriate.

C. Clearly State Factors for Decision

Unless stated otherwise in this Ordinance, the decision-making body's decision shall clearly state the factors considered in making the decision and the basis or rationale for the decision.

D. Timing

The decision-making body shall take action as promptly as possible in consideration of the interests of the applicant, affected parties, and citizens of the county.

E. Timing of Lots

The Board of Commissioners may allocate the total number of lots in a subdivision that may be depicted on a final plat at any one time, based upon the adequacy of public facilities serving the development.

2.3.11. Conditions of Approval

Conditions of approval shall be limited to those deemed necessary to ensure compliance with the review standards for the particular type of application, or to prevent or minimize adverse effects from the proposed development on surrounding lands. They shall be related in both type and amount to the anticipated impacts of the proposed development on the public and surrounding development. All conditions of approval shall be expressly set forth in the notice of decision or development permit approval.

2.3.12. Notification of Decision or Action

Within ten business days after a final decision on a development application, the Planning Director shall provide the applicant written notice of the decision or action and make a copy of the decision available to the public in the offices of the Planning and Community Development Department, during normal business hours.

2.3.13. Effect of Development Approval

Approval of any 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. In the event that one permit or approval is a prerequisite to another permit or approval (e.g., administrative adjustment or variance approval prior to a site plan approval) development may not take place until all required approvals are obtained, and approval of one development application does not necessarily guarantee approval of any subsequent development application.

2.3.14. Amendment of Development Approval

Unless specified in the specific procedure description in Section 2.4, Specific Review Procedures, an amendment of a permit or approval may only be reviewed in accordance with the procedures and standards established for its original approval.

2.3.15. Expiration of Development Approval

A. General

- (1) Except for zoning map amendments, conditional rezonings, planned developments, and development permits and approvals subject to a vested right, development approvals granted in accordance with this Ordinance shall expire as provided in Section 2.4, Specific Review Procedures, for the particular type of development permit or approval.
- (2) If no expiration period is provided in Section 2.4, for a specific type of development permit or approval, the development permit or approval shall expire if a zoning compliance permit authorizing the approved development is not obtained within two years of the approval.
- (3) A change in ownership of the land shall not affect the established expiration time period. The filing of an appeal shall toll the established expiration period until final resolution of the appeal.

B. Extension of Expiration Time Period

- (1) Except as otherwise provided in Section 2.4, Specific Review Procedures, for the particular type of development permit or approval, the Planning Director may, on receiving a written request for extension before the expiration date and on a showing of good cause, grant one or more extensions of the expiration time period for up to a cumulative total of one year.
- (2) Any further extensions shall be subject to approval by the authority that granted the development permit or approval, on submittal of a request for extension to the Planning Director before the expiration date and a showing of good cause.

2.3.16. Limitation on Subsequent Similar Applications

A. Application Denial

- (1) If a development application requiring a public hearing is denied, no application proposing the same or similar development on all or part of the same land shall be submitted within one year after the date of denial unless the decision-making body waives this time limit in accordance with subsection (2) below.
- (2) The owner of land subject to this subsection, or the owner's authorized agent, may submit a written request for waiver of the time limit, 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 two-thirds of its membership that the owner or agent has demonstrated that:
 - (a) There is a substantial change in circumstances relevant to the issues or facts considered during review of the prior application that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed in the new application; or
 - (b) New or additional information is available that was not available at the time of review of the prior application and that might reasonably affect

- the decision-making body's application of the relevant review standards to the development proposed in the new application; or
- (c) The new application proposed to be submitted is materially different from the prior application; or
 - (d) The final decision on the prior application was based on a material mistake of fact.

B. Application Withdrawal After Required Public Notification

If a development application requiring a public hearing is withdrawn after required public notification of the public hearing is provided, no application proposing the same or similar development on all or part of the same land shall be submitted within one year after the date of withdrawal.

2.4. SPECIFIC REVIEW PROCEDURES

2.4.1. Overview

A. General

This section sets forth supplemental procedures, standards, and related information for each of the specific review procedures for development applications reviewed under this Ordinance, as identified in Table 2.1, Development Review Procedures. They apply in addition to, or instead of, the standard procedures set forth in Section 2.3, Standard Procedures.

B. Structure of Procedures

For each type of development application reviewed under this Ordinance, the following sections state the purpose of the section and/or type of development permit or approval, and whether each of the steps in the standard procedure set forth in Section 2.3, Standard Procedures, is applicable, optional, or not applicable. The following sections also include, for each step, any variations of, or additions to, the standard procedures. This is followed by the review standards for the application, and provisions addressing expiration and amendment, if applicable.

2.4.2. Text Amendment

A. Purpose

The purpose of this section is to provide a uniform means for amending the text of this Ordinance whenever the public necessity, changed conditions, convenience, general welfare, or appropriate land use practices justify or require doing so.

B. Text Amendment Procedure

(1) Pre-Application Conference

Applicable (see Section 2.3.2).

(2) Community Meeting

Not applicable.

(3) Application Submittal and Acceptance

Applicable (see Section 2.3.4). Applications may be initiated by the Board of Commissioners, the Planning Board, the Planning Director, the TRC, any

person who may submit applications in accordance with Section 2.3.4.A, Authority to File Applications, or any other interested party.

(4) Staff Review and Action

Applicable (see Section 2.3.5). The Planning Director shall review the application, prepare a staff report, and provide a recommendation in accordance with Section 2.3.5.B, Staff Report and Recommendation, and Section 2.4.2.C, Text Amendment Review Standards.

(5) Public Hearing Scheduling and Public Notification

Applicable (see Section 2.3.6).

(6) Public Hearing Procedures

Applicable (see Section 2.3.8).

(7) Advisory Body Review and Recommendation

Applicable (see Section 2.3.9). The Planning Board, following a public meeting, shall make a recommendation on an application in accordance with Section 2.3.9, Advisory Body Review and Recommendation, and Section 2.4.2.C, Text Amendment Review Standards.

(8) Decision-Making Body Review and Decision

(a) Applicable (see Section 2.3.10). The Board of Commissioners, following a legislative public hearing (see Section 2.3.8.B), shall decide the application in accordance with Section 2.3.10, Decision-Making Body Review and Decision, and Section 2.4.2.C, Text Amendment Review Standards. The decision shall be one of the following:

- (i)** Adoption of the text amendment as proposed;
- (ii)** Adoption of a revised text amendment;
- (iii)** Denial of the text amendment; or
- (iv)** Remand of the text amendment application back to the Planning Board for further consideration.

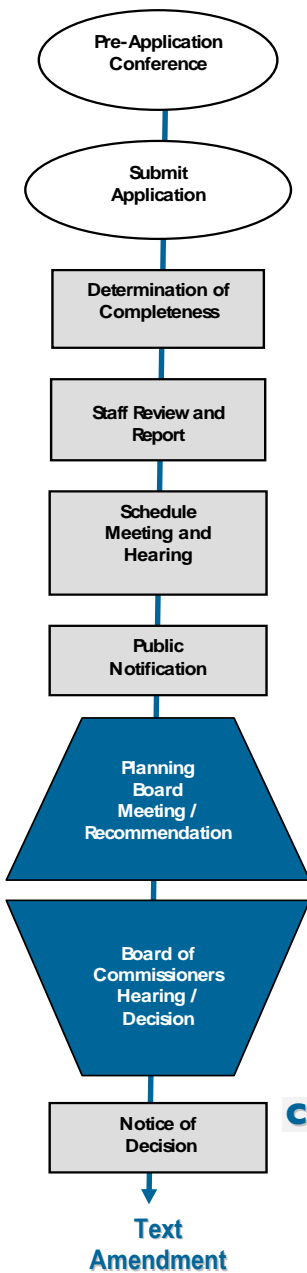
(b) In making its decision, the Board of Commissioners shall adopt a written statement of consistency and reasonableness that:

- (i)** Describes whether the decision is consistent with all county-adopted plans that are applicable; and
- (ii)** Explains why the decision is reasonable and in the public interest.

C. Text Amendment Review Standards

The advisability of amending the text of this Ordinance is a matter committed to the legislative discretion of the Board of Commissioners and is not controlled by any one factor. In determining whether to adopt or deny the proposed text amendment, the Board of Commissioners may weigh the relevance of and consider whether and the extent to which the proposed text amendment:

- (I)** Is consistent with the goals, objectives, and policies of the Land Use Plan and other applicable county-adopted plans;



SECTION 2.4: SPECIFIC REVIEW PROCEDURES

Subsection 2.4.3: Zoning Map Amendment

- (2)** Is not in conflict with any provision of this Ordinance or the County Code of Ordinances;
- (3)** Is required by changed conditions;
- (4)** Addresses a demonstrated community need;
- (5)** 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 county;
- (6)** Would result in a logical and orderly development pattern; and
- (7)** Would not result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

D. Effect

Applicable (see Section 2.3.13).

E. Amendment

Applicable (see Section 2.3.14).

F. Expiration

Approval of a text amendment shall not expire, but the amended text of this Ordinance is subject to further amendment in accordance with the text amendment procedures set forth in this section.

2.4.3. Zoning Map Amendment

A. Purpose

The purpose of this section is to provide a uniform means for reviewing and deciding proposed general amendments to the Official Zoning Map whenever the public necessity, general welfare, Land Use Plan, or appropriate land use practices justify or require doing so.

B. Zoning Map Amendment Procedure

(1) Pre-Application Conference

Applicable (see Section 2.3.2).

(2) Community Meeting

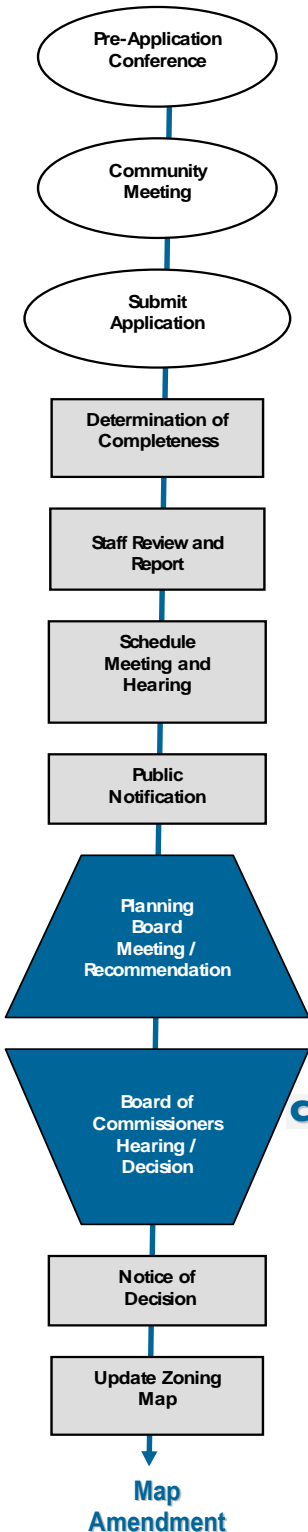
Applicable (see Section 2.3.3).

(3) Application Submittal and Acceptance

Applicable (see Section 2.3.4). Applications may be initiated by the Board of Commissioners, the Planning Board, the Planning Director, or any person who may submit applications in accordance with Section 2.3.4.A, Authority to File Applications.

(4) Staff Review and Action

Applicable (see Section 2.3.5). The Planning Director shall review the application, prepare a staff report, and provide a recommendation in accordance with Section 2.3.5.B, Staff Report and Recommendation, and Section 2.4.3.C, Map Amendment Review Standards.



(5) Public Hearing Scheduling and Public Notification

Applicable (see Section 2.3.6).

(6) Public Hearing Procedures

Applicable (see Section 2.3.8).

(7) Advisory Body Review and Recommendation

Applicable (see Section 2.3.9). The Planning Board, following a public meeting, shall make a recommendation on the application in accordance with Section 2.4.3.C, Zoning Map Amendment Review Standards.

(8) Decision-Making Body Review and Decision

(a) Applicable (see Section 2.3.10). The Board of Commissioners, following a legislative public hearing (see Section 2.3.8.B), shall decide the application in accordance with Section 2.3.10, Decision-Making Body Review and Decision, and Section 2.4.3.C, Zoning Map Amendment Review Standards. The decision shall be one of the following:

- (i)** Approval of the map amendment as submitted;
- (ii)** Approval of the map amendment with a reduction in the area proposed to be rezoned;
- (iii)** Approval of a map amendment to a more restricted base zoning district; or
- (iv)** Denial of the map amendment application.

(b) In making its decision, the Board of Commissioners shall adopt a written statement of consistency and reasonableness that:

- (i)** Describes whether the decision is consistent with all county-adopted plans that are applicable; and
- (ii)** Explains why the decision is reasonable and in the public interest.

C. Zoning Map Amendment Review Standards

The advisability of an amendment to the Official Zoning Map is a matter committed to the legislative discretion of the Board of Commissioners and is not controlled by any one factor. In determining whether to adopt or deny a proposed map amendment, the Board of Commissioners may weigh the relevance of and consider whether and the extent to which the proposed amendment:

- (1)** Is consistent with the goals, objectives, and policies of the Land Use Plan, other applicable county-adopted plans, and the purposes of this Ordinance;
- (2)** Is in conflict with any provision of this Ordinance, or the County Code of Ordinances;
- (3)** Is required by changed conditions;
- (4)** Addresses a demonstrated community need;
- (5)** Is compatible with existing and proposed uses surrounding the land subject to the application, and is the appropriate zoning district and uses for the land;
- (6)** Adversely impacts nearby lands;

SECTION 2.4: SPECIFIC REVIEW PROCEDURES

Subsection 2.4.4: Conditional Rezoning

- (7)** Would result in a logical and orderly development pattern;
- (8)** Would result in significant adverse impacts on the natural environment—including, but not limited to, water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment;
- (9)** Would result in development that is adequately served by public facilities (e.g., streets, potable water, sewerage, stormwater management, solid waste collection and disposal, schools, parks, police, and fire and emergency medical facilities);
- (10)** Would not result in significantly adverse impacts on the land values in the surrounding area; and
- (11)** Would not conflict with the public interest, and is in harmony with the purposes and intent of this Ordinance.

D. Designation on Official Zoning Map

The Planning Director shall enter changes onto the Official Zoning Map promptly after approval of a map amendment application by the Board of Commissioners.

E. Effect

Applicable (see Section 2.3.13).

F. Amendment

Applicable (see Section 2.3.14).

G. Expiration

Approval of an Official Zoning Map amendment shall not expire, but the amended Official Zoning Map is subject to further amendment in accordance with the map amendment procedures set forth in this section.

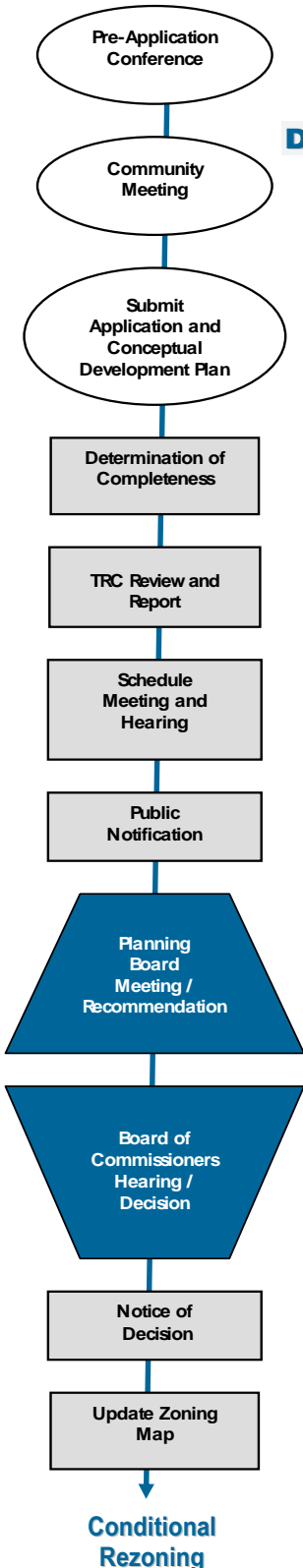
2.4.4. Conditional Rezoning

A. Purpose

The purpose of this section is to provide a uniform means for amending the Official Zoning Map to establish conditional zoning districts. 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 county's adopted plans or to appropriately address the impacts expected to be generated by development, a landowner may apply for a conditional rezoning. The conditional rezoning establishes a parallel 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 county mutually agree are necessary to ensure conformance to adopted plans and adequately address expected development impacts.

B. Uses Allowed Subject to a Conditional Zoning District Classification

Specific uses may require a conditional zoning district classification to appropriately address the impacts on the community expected to be generated by the development. Uses requiring a conditional zoning district classification are not allowed in the corresponding base zoning district.



C. Applied to Entire Site

Applications for conditional rezoning submitted after January 1, 2013 shall include all the land area within a recorded lot or site that is the subject of the application. Conditional rezoning applications may not establish bi-furcated zoning classifications where only a portion of a lot or site is subject to a conditional zoning classification.

D. Conditional Rezoning Procedure

(1) Pre-Application Conference

Applicable (see Section 2.3.2).

(2) Community Meeting

Applicable (see Section 2.3.3).

(3) Application Submittal and Acceptance

Applicable (see Section 2.3.4). Conditional rezoning applications may not be initiated by anyone other than the landowner(s) of the subject land. All conditions of approval proposed by the applicant, including a mandatory conceptual development plan depicting the proposed development configuration, must be included in with the conditional rezoning application (see Section 3.6.5, Conceptual Development Plan).

(4) Staff Review and Action

Applicable (see Section 2.3.5). The Technical Review Committee shall review the application, prepare a staff report, and provide a recommendation in accordance with Section 2.3.5.B, Staff Report and Recommendation, and Section 2.4.4.D, Conditional Rezoning Review Standards.

(5) Public Hearing Scheduling and Public Notification

Applicable (see Section 2.3.6).

(6) Public Hearing Procedures

Applicable (see Section 2.3.8).

(7) Advisory Body Review and Recommendation

(a) Applicable (see Section 2.3.9). The Planning Board, following a public meeting, shall make a recommendation on the application in accordance with Section 2.3.9, Advisory Body Review and Recommendation, and Section 2.4.4.D, Conditional Rezoning Review Standards.

(b) During its review of the application, the Planning Board may suggest revisions to the proposed conditions (including the conceptual development plan), consistent with the provisions of Section 2.3.11, Conditions of Approval. Only those revisions agreed to in writing by the applicant shall be incorporated into the application.

(8) Decision-Making Body Review and Decision

(a) Applicable (see Section 2.3.10). The Board of Commissioners, following a legislative public hearing (Section 2.3.8.B), shall decide the application in accordance with Section 2.3.10, Decision-Making Body Review and Decision, and Section 2.4.4.D, Conditional Rezoning Review Standards. The decision shall be one of the following:

SECTION 2.4: SPECIFIC REVIEW PROCEDURES**Subsection 2.4.4: Conditional Rezoning**

- (i) Approval of the conditional rezoning subject to the conditions included in the application;
 - (ii) Approval of the conditional rezoning subject to any revised or additional conditions agreed to by the applicant, in writing;
 - (iii) Denial of the conditional rezoning; or
 - (iv) Remand of the conditional rezoning application back to the Planning Board for further consideration.
- (b) As part of the decision, the Board of Commissioners shall adopt a written statement of consistency and reasonableness that:
- (i) Describes whether the decision is consistent with all county-adopted plans that are applicable; and
 - (ii) Explains why the decision is reasonable and in the public interest.

E. Conditional Rezoning Review Standards

The advisability of a conditional rezoning is a matter committed to the legislative discretion of the Board of Commissioners and is not controlled by any one factor. In determining whether to adopt or deny a conditional rezoning, the Board of Commissioners may consider the standards in Section 2.4.3.C, Zoning Map Amendment Review Standards.

F. Conditions of Approval

- (1) Only conditions mutually agreed to by the owner(s) of the property to be conditionally rezoned and the Board of Commissioners may be approved as part of a conditional zoning district.
- (2) Conditions shall be limited to those that address conformance of development and use of the site with county regulations and adopted plans and 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 or of plans and maps.
- (4) No condition shall be less restrictive than the standards of the parallel general use zoning district, any applicable overlay zoning district standard, or other applicable requirements in this Ordinance.

G. Designation on Official Zoning Map

Designation of a conditional zoning district on the Official Zoning Map shall bear the same designation as the parallel general use zoning district but shall also include the prefix “C” along with the ordinance number approving the conditional rezoning.

H. Effect

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 proposed by the applicant and approved by the Board of Commissioners. These standards and modifying conditions are binding on the land as an amendment to this Ordinance and the Official Zoning Map.

I. Minor Deviations**(1) Minor Deviations from Approved Conceptual Development Plan**

Subsequent plans and permits for development within a conditional zoning district may include minor deviations from the approved conceptual development plan, provided such deviations are limited to changes addressing technical considerations that could not reasonably be anticipated during the conditional zoning classification process, or any other change that has no material effect on the character of the approved development. Changes in the following shall constitute minor deviations that may be approved by the Planning Director:

- (a)** Driveway locations;
- (b)** Structure floor plan revisions;
- (c)** Minor shifts in building size or location; and
- (d)** Facility design modifications for amenities and the like.

(2) Material Changes are Amendments

Changes that materially affect the basic configuration of the approved conceptual development plan are not considered minor deviations, and shall only be changed as amendments to the conditional rezoning in accordance with Section 2.3.14, Amendment of Development Approval.

J. Amendment

Applicable (see Section 2.3.14).

K. Expiration

Not applicable.

2.4.5. Planned Development**A. Purpose**

A planned development is a development that is planned and developed under unified control in accordance with more flexible standards and procedures that are conducive to creating more mixed-use, pedestrian-oriented, and otherwise higher quality development than could be achieved through general use (base) zoning district regulations. The purpose of this section is to provide a uniform means for amending the Official Zoning Map to establish a Planned Development (PD) zoning district.

B. Scope

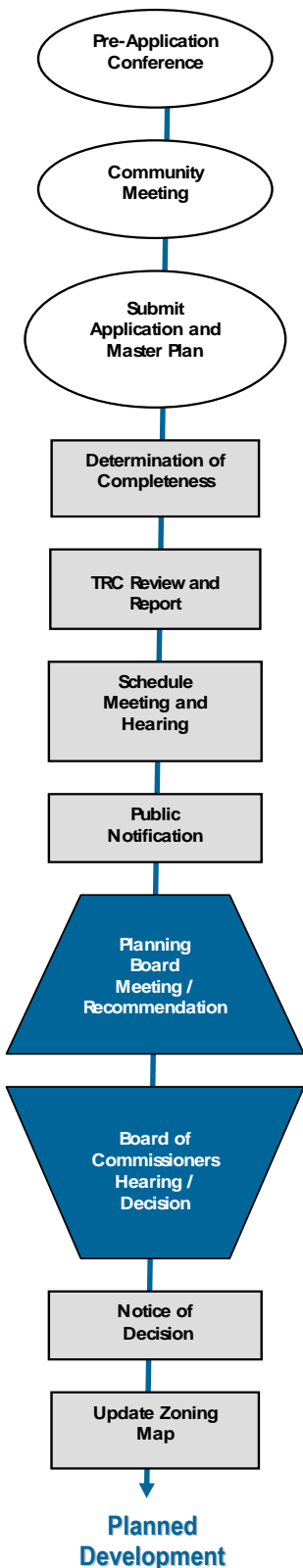
A planned development is established by amendment of the Official Zoning Map to rezone land to a Planned Development zoning district classification that is defined by a master plan and a terms and conditions document.

C. Planned Development Procedure**(1) Pre-Application Conference**

Applicable (see Section 2.3.2).

(2) Community Meeting

Applicable (see Section 2.3.3).



(3) Application Submittal and Acceptance

- (a) Applicable (see Section 2.3.4). Planned development applications may not be initiated by anyone other than the landowner(s) of the land subject to the application.
- (b) The application shall include a 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 (see Section 3.7.2.A, Planned Development Master Plan).
- (c) The application shall also include a 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.
- (d) To ensure unified control, the application shall also include a copy of the title to all land that is part of the proposed PD zoning district classification.

(4) Staff Review and Action

Applicable (see Section 2.3.5). The Technical Review Committee shall review the application, prepare a staff report, and provide a recommendation in accordance with Section 2.3.5.B, Staff Report and Recommendation, and Section 2.4.5.D, Planned Development Review Standards.

(5) Public Hearing Scheduling and Public Notification

Applicable (see Section 2.3.6).

(6) Public Hearing Procedures

Applicable (see Section 2.3.8).

(7) Advisory Body Review and Recommendation

Applicable (see Section 2.3.9). The Planning Board, following a public meeting, shall make a recommendation on the application in accordance with Section 2.3.9, Advisory Body Review and Recommendation, and Section 2.4.5.D, Planned Development Review Standards.

(8) Decision-Making Body Review and Decision

- (a) Applicable (see Section 2.3.10). The Board of Commissioners, following a legislative public hearing (Section 2.3.8.B), shall decide the application in accordance with Section 2.3.10, Decision-Making Body Review and Decision, and Section 2.4.5.D, Planned Development Review Standards. The decision shall be one of the following:
 - (i) Approval of the planned development subject to the PD master plan and PD terms and conditions in the application;
 - (ii) Approval of the planned development subject to additional or revised conditions related to the PD master plan or PD terms and conditions;
 - (iii) Denial of the planned development; or
 - (iv) Remand of the planned development application back to the Planning Board for further consideration.

SECTION 2.4: SPECIFIC REVIEW PROCEDURES**Subsection 2.4.5: Planned Development**

- (b)** As part of the decision, the Board of Commissioners shall adopt a written statement of consistency and reasonableness that:
 - (i)** Describes whether the decision is consistent with all county-adopted plans that are applicable; and
 - (ii)** Explains why the decision is reasonable and in the public interest.

D. Planned Development Review Standards

The advisability of establishing a planned development is a matter committed to the legislative discretion of the Board of Commissioners and is not controlled by any one factor. In determining whether to adopt or deny a planned development, the Board of Commissioners shall consider the standards in Section 2.4.3.C, Zoning Map Amendment Standards, and the standards for the proposed type of PD district in Section 3.7, Planned Development Base Zoning Districts.

E. Designation on the Official Zoning Map

Designation of a PD zoning district on the Official Zoning Map shall note the ordinance number approving the PD zoning classification.

F. Effect

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 Official 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. Any permits or approvals shall comply with the PD master plan and the PD terms and conditions.

G. Expiration

- (1)** 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, the Planning Director shall initiate a map amendment application to rezone the land back to its prior zoning classification or any other base zoning classification determined to be appropriate. Such time period shall not be extended with transfer of ownership.
- (2)** Upon written request submitted at least 30 days before expiration of the two-year period provided in Section 2.4.5.G.1 above, and upon a showing of good cause, the Planning Director may grant one extension not to exceed six months for the applicant to submit required development applications.

H. Minor Deviation**(1) General**

Subsequent plans and permits for development within an approved planned development may include minor deviations from the PD master plan or PD terms and conditions, provided such deviations are limited to changes addressing technical considerations that could not reasonably be anticipated during the PD zoning classification process or any other change that has no material effect on the character of the approved planned development or any

of its approved terms or conditions. Changes in the following shall constitute minor deviations and may be approved by the Planning Director:

- (a) Driveway locations;
- (b) Structure floor plan revisions;
- (c) Minor shifts in building size or location; and
- (d) Facility design modifications for amenities and the like.

(2) Material Changes are Amendments

Changes 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, and shall only be changed as amendments to the PD master plan or PD terms and conditions.

I. Amendments

(1) General

If an applicant determines it is necessary to alter the concept or intent of the PD master plan or the PD terms and conditions, the PD master plan or PD terms and conditions shall be amended, extended, or modified only in accordance with the procedures and standards for its original approval.

(2) Amendments Defined

The following items are considered an alteration of the concept or intent of the PD master plan or PD terms and conditions and are treated as an amendment:

- (a) Changes in use designations;
- (b) Density/intensity increases;
- (c) Decreases in open space;
- (d) Substantial changes in the location of streets (particularly if streets are to be deleted or access points to the development moved so traffic flows both inside and outside the development are affected);
- (e) Change in the location of any public easement; or
- (f) Change in the proportion of housing types by more than 15 percent.

2.4.6. Use Permit

A. Purpose

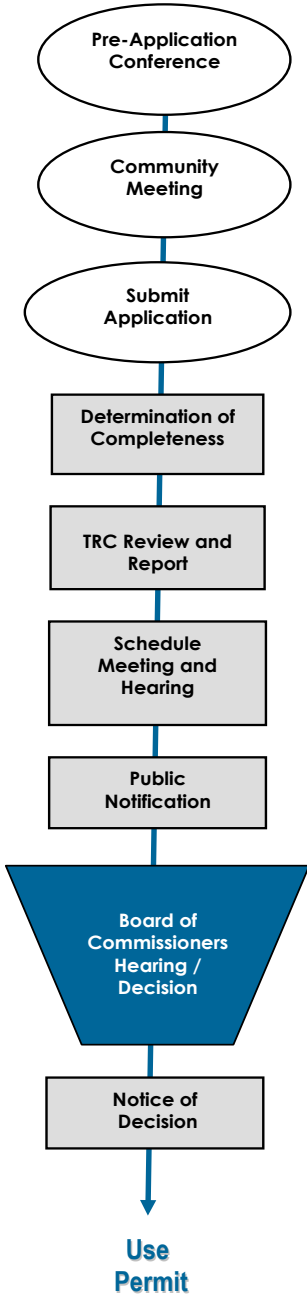
A use requiring a use permit in a particular zoning district is a use that may be appropriate in the district, but because of its nature, extent, and external effects, requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings. The purpose of this section is to establish a mechanism to review these kinds of uses to ensure they are appropriate for a particular zoning district.

B. Applicability

The following forms of development shall obtain use permit approval in accordance with the standards in this section:

- (1) Uses identified as requiring use permits in Table 4.1.1, Summary Use Table, or Table 4.3.2.E, Table of Common Accessory Uses;

- (2) Type II preliminary plats;
- (3) Type I preliminary plats when one or more public facilities are at 85 percent or more of maximum capacity; and
- (4) Commercial structures exceeding 5,000 square feet in area proposed outside a Full Service area.



C. Use Permit Procedure

- (1) **Pre-Application Conference**
Applicable (see Section 2.3.2).
- (2) **Community Meeting**
Applicable (see Section 2.3.3).
- (3) **Application Submittal and Acceptance**
Applicable (see Section 2.3.4).
- (4) **Staff Review and Action**
Applicable (see Section 2.3.5). The Technical Review Committee shall review the application, prepare a staff report, and provide a recommendation in accordance with Section 2.3.5.B, Staff Report and Recommendation, and Section 2.4.6.D, Use Permit Review Standards.
- (5) **Public Hearing Scheduling and Public Notification**
Applicable (see Section 2.3.6).
- (6) **Public Hearing Procedures**
Applicable (see section 2.3.7).
- (7) **Advisory Body Review and Recommendation**
Not Applicable.
- (8) **Decision-Making Body Review and Decision**
 - (a) Applicable (see Section 2.3.10). The Board of Commissioners, following a quasi-judicial public hearing (see Section 2.3.8.C), shall decide the application in accordance with Section 2.3.10, Decision-Making Body Review and Decision, and Section 2.4.6.D, Use Permit Review Standards. The decision shall be the one of the following:
 - (i) Adoption of the use permit;
 - (ii) Adoption of the use permit subject to conditions of approval; or
 - (iii) Denial of the use permit.
 - (b) The Board of Commissioners may attach additional conditions of approval, including timing limits on residential building lots or units available for occupancy, to assure adequate public facilities remain sufficient to serve the development.

- (c) Any conditions of approval shall meet or exceed the minimum requirements of this Ordinance.

D. Use Permit Review Standards

A use permit shall be approved on a finding the applicant demonstrates the proposed use will:

- (1) Not endanger the public health or safety;
- (2) Not injure the value of adjoining or abutting lands and will be in harmony with the area in which it is located;
- (3) Be in conformity with the Land Use Plan or other officially adopted plan.
- (4) Not exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, law enforcement, and other county facilities. Applicable state standards and guidelines shall be followed for determining when public facilities are adequate.

E. Effect of Development Approval

Applicable (see Section 2.3.13).

F. Amendment of Development Approval

Applicable (see Section 2.3.14).

G. Expiration of Development Approval

A use permit shall automatically expire if any of the following is not obtained within two years of the date of use permit approval:

- (1) A building permit;
- (2) If a building permit is not required, establishment of the use; or
- (3) Submittal of a complete application for approval of a final plat, if the use requires approval of a preliminary plat.

2.4.7. 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 county regulations. The purpose of this section is to establish the procedure and standards for review of site plans.

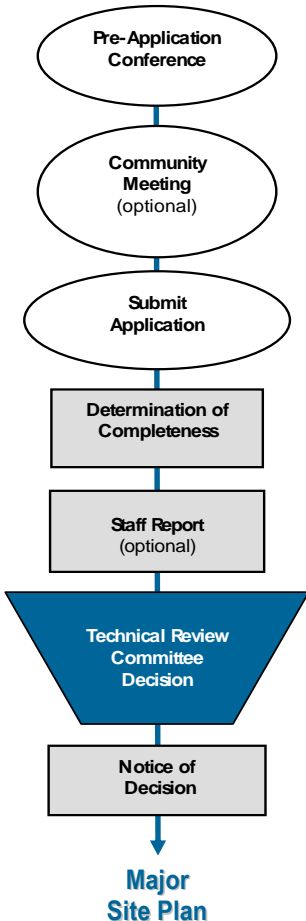
B. Applicability

(1) General

All development, unless exempted in accordance with sub-section (2) below shall be required to have a site plan approved in accordance with this section prior to issuance of a zoning compliance permit or building permit.

(2) Exemptions

The following development is exempted from the requirements of this section:



- (a) Internal construction that does not increase building height, increase the density or intensity of use, or affect parking or landscaping requirements;
- (b) Change in use that does not result in the need for additional parking or landscaping;
- (c) Detached accessory structures associated with a single-family detached residential use that involve construction of less than 144 gross square feet of floor area; and
- (d) Temporary uses, subject to a temporary use permit (see Section 2.4.11).

C. Site Plans Distinguished

There are two different types of site plans under this section: minor site plans and major site plans.

(1) Minor Site Plans

The following development shall be reviewed as a minor site plan:

- (a) New single-family detached dwellings, including individual manufactured homes and duplexes;
- (b) Additions or expansions of a single-family detached dwelling;
- (c) Accessory uses or structures serving an existing principal use; or
- (d) Development or expansion of a nonresidential, multi-family, or mixed-use building's gross floor area, impervious surface, disturbed land area, and other use area, by less than 5,000 square feet.

(2) Major Site Plans

All other development shall be reviewed as a major site plan.

D. Major Site Plan Review Procedure

(1) Pre-Application Conference

Applicable (see Section 2.3.2).

(2) Community Meeting

Optional (see Section 2.3.3).

(3) Application Submittal and Acceptance

Applicable (see Section 2.3.4).

(4) Staff Review and Action

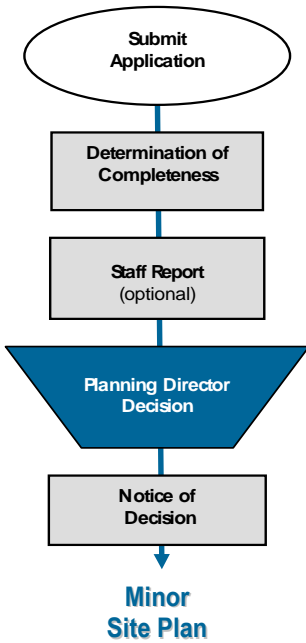
Applicable (see Section 2.3.5). The Technical Review Committee shall review and decide the application in accordance with Section 2.3.5.D, Applications Subject to Decision by Planning Director or Technical Review Committee, and Section 2.4.7.F, Site Plan Review Standards.

(5) Public Hearing Scheduling and Public Notification

Not applicable.

(6) Public Hearing Procedures

Not applicable.



(7) Advisory Body Review and Recommendation

Not applicable.

(8) Decision-Making Body Review and Decision

Not applicable.

E. Minor Site Plan Review Procedure

(1) Pre-Application Conference

Not applicable.

(2) Community Meeting

Not applicable.

(3) Application Submittal and Acceptance

Applicable (see Section 2.3.4).

(4) Staff Review and Action

Applicable (see Section 2.3.5). The Planning Director shall review and decide the application in accordance with Section 2.3.5.D, Applications Subject to Decision by Planning Director or Technical Review Committee, and Section 2.4.7.F, Site Plan Review Standards.

(5) Public Hearing Scheduling and Public Notification

Not applicable.

(6) Public Hearing Procedures

Not applicable.

(7) Advisory Body Review and Recommendation

Not applicable.

(8) Decision-Making Body Review and Decision

Not applicable.

F. Site Plan Review Standards

An application for a site plan shall be approved on a finding the applicant has demonstrated the proposed development:

- (1)** Is consistent with the Land Use Plan or other officially adopted plan;
- (2)** Complies with the applicable district, use-specific, development, environmental, and infrastructure design standards of this Ordinance;
- (3)** Complies with the Currituck County Stormwater Manual and all other applicable standards of this Ordinance and the County Code of Ordinances; and
- (4)** Complies with all standards or conditions of any prior applicable development permits or approvals.

G. Effect of Development Approval

Approval of a site plan authorizes the submittal of an application for a zoning compliance permit and any other development application that may be required before construction or other development authorized by this Ordinance. Applicants may

submit applications for a site plan, zoning compliance permit, and building permit concurrently.

H. Amendment of Development Approval

Applicable (see Section 2.3.14).

I. Expiration of Development Approval

Site plan approval shall automatically expire at the end of two years following the date of approval if a building permit for at least one building in the site plan is not approved. A change in the ownership in land does not affect this time period.

2.4.8. Subdivision

A. Purpose

The purpose of this section is to provide a uniform means for the review and approval of divisions of land and to ensure, in conjunction with Chapter 6: Subdivision and Infrastructure Standards, that subdivisions promote the health, safety, convenience, order, prosperity, and welfare of the present and future residents of the county by:

- (1)** Providing for the orderly growth and development of the county;
- (2)** Coordinating streets within proposed subdivisions with the existing street system, transportation plans, and other public facilities;
- (3)** Providing rights-of-way for streets and utility easements;
- (4)** Avoiding congestion and overcrowding, and encouraging the proper arrangement of streets in relation to existing or planned streets;
- (5)** Ensuring there is adequate open space and recreation facilities to serve development; and
- (6)** Ensuring there is proper recordation of land ownership or property owner association records, where applicable.

B. Applicability

(1) General

Unless exempted in accordance with subsection B.2 below, before the division of land (whether improved or unimproved) into two or more lots is recorded or otherwise made effective, the landowner shall comply with the requirements of this section.

(2) Exemptions

- (a)** The division of a tract or parcel transferred to the county, State, or Federal government is exempt from subdivision review and the standards in Chapter 6; Subdivision and Infrastructure Standards, provided the transferred tract or parcel is for the conservation of natural resources, utilities, or other public purposes. The subsequent transfer of government property to a non-governmental entity, further division of the property for non-public uses, and any resultant lot shall be subject to the requirements of this section.
- (b)** No-review subdivisions are exempt from subdivision review, but shall be required to comply with the relevant standards in Chapter 6:

Subdivision and Infrastructure Standards, all other applicable standards in this Ordinance, and the County Code of Ordinances.

C. Subdivisions Distinguished

There are three different types of subdivisions under this section: a no-review subdivision, a minor subdivision, and a major subdivision.

(1) No-Review Subdivision

(a) A no-review subdivision is the division of land in a way that is not subject to review under this section, but is subject to compliance with all other applicable standards in this Ordinance and the County Code of Ordinances. No-review subdivisions consist of the division of land in one of the following ways:

- (i)** The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this Ordinance;
- (ii)** The division of land into parcels greater than ten acres where no street right-of-way dedication is involved. Each parcel that is part of the subdivision shall be greater than ten acres;
- (iii)** The public acquisition by purchase of strips of land for the widening or opening of streets or provision of public utilities;
- (iv)** The division of a tract of land in single ownership that is no greater than two acres in area into not more than three lots, when:
 - (A)** No street right-of-way dedication is involved: and
 - (B)** The resultant lots are equal to or exceed the standards of this Ordinance.

(b) Any map or plat related to a no-review subdivision intended for recordation shall bear the words “no approval required” and the signature of the Planning Director.

(2) Minor Subdivision

A minor subdivision consists of the division of land into five or fewer lots that does not constitute a no review subdivision.

(3) Major Subdivision

All other subdivisions of land shall constitute a major subdivision.

D. Minor Subdivision

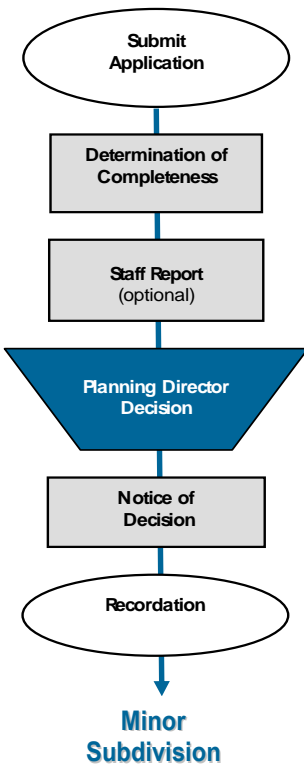
(1) Procedure

(a) Pre-Application Conference

Not applicable.

(b) Community Meeting

Not Applicable.



(c) Application Submittal and Acceptance

- (i)** Applicable (see Section 2.3.4). Applications shall include a final plat prepared in accordance with the standards in Section 2.4.8.E.5.b, Final Plat Review Standards.
- (ii)** Applications for a family subdivision shall include an attestation that the purpose for the subdivision is solely for the conveyance of lots to family members, and that conveyance of a lot in a family subdivision to a non-family member is a violation of this Ordinance.

(d) Staff Review and Action

Applicable (see Section 2.3.5). The Planning Director shall decide an application for a minor subdivision in accordance with Section 2.3.5.D, Applications Subject to Decision by Planning Director or Technical Review Committee, and Section 2.4.8.D.2, Minor Subdivision Review Standards.

(e) Public Hearing Scheduling and Public Notification

Not applicable.

(f) Public Hearing Procedures

Not applicable.

(g) Advisory Body Review and Recommendation

Not applicable.

(h) Decision-Making Body Review and Decision

Not applicable.

(2) Minor Subdivision Review Standards

(a) General Standards

A minor subdivision shall be approved on a finding that:

- (i)** It complies with all applicable standards in Chapter 6: Subdivision and Infrastructure Standards, the standards for a final plat in Section 2.4.8.E.5.B; and all other applicable standards in this Ordinance;
- (ii)** It complies with the dimensional standards of Chapter 3;
- (iii)** It will result in five or fewer lots created from the parent parcel or tract (including the residual parcel or tract of less than ten acres in area), as it existed on April 2, 1989 (except as allowed in Section 2.4.8.D.2.B, Additional Standards for Family Subdivisions);
- (iv)** It fronts an existing NCDOT-maintained public street or a private access street;
- (v)** There is no public right-of-way dedication;
- (vi)** It does not create a private access street serving more than two lots unless it is a family subdivision; and
- (vii)** Any private access street created complies with Section 6.2.1.B.1 Private Access Street Standards.

(b) Additional Standards for Family Subdivisions

Family subdivisions shall follow the review procedure for minor subdivisions and shall comply with the general standards in (a) above as well as the following:

- (i)** Lots shall be conveyed solely to family members within two degrees of kinship (e.g., child, grandchild). A maximum of one lot shall be conveyed to the individual family member, including family subdivisions on different parent parcels.
- (ii)** No more than five lots are created from the parent parcel or tract (including the residual parcel or tract of less than ten acres in area) as it existed ten years prior to application submittal.
- (iii)** Ingress and egress to a lot shall not be from a major arterial street.
- (iv)** Private access streets created shall not serve more than five lots.
- (v)** Principal uses shall be limited to single-family detached dwellings and customary accessory uses.

(3) Effect of Development Approval

- (a)** Approval of a minor subdivision constitutes approval of a final plat for subdivision.
- (b)** Lots shall not be sold or conveyed until after a final plat has been recorded.

(4) Amendment of Development Approval

Applicable (see Section 2.3.14).

(5) Expiration of Development Approval

A minor subdivision plat shall be recorded with the Currituck County Register of Deeds within 90 days of its approval, or it shall be null and void.

E. Major Subdivision**(I) Overview****(a) In General**

- (i)** Development of a major subdivision requires approval of a preliminary plat (type I or type II), a use permit (if applicable), construction drawings, and then a final plat.
- (ii)** The Planning Director may allow concurrent submittal of a preliminary and final plat in cases where no public improvements are required, or concurrent submittal of a preliminary plat and construction drawings where public improvements are required.
- (iii)** Minor subdivision lots shall be included when calculating the acreage and total number of lots for a major subdivision when:
 - (A)** The minor subdivision lots are created from the same parent parcel or parcels of land proposed for a major subdivision; and

- (B) The preliminary plat is submitted within five years from the date in which the minor subdivision was approved.

(b) Preliminary Plat

- (i) The preliminary plat is a detailed plan that shows the general organization, layout, and phasing (if appropriate) of the subdivision. It does not have to include all design details. It is expected to be modified as more detailed planning and engineering are completed on the site.
- (ii) There are two types of preliminary plats, a type I and a type II. A type I preliminary plat is required for a subdivision creating 20 or fewer lots, and is reviewed and decided upon by the TRC. Approval of a type II preliminary plat (see Section 2.4.8.E.3) by the Board of Commissions is required for subdivisions of 21 or more lots.
- (iii) Type I preliminary plats do not require concurrent approval of a use permit unless one or more of the applicable public facilities is within 85 percent or more of capacity. Type II preliminary plats require concurrent approval of a use permit.
- (iv) If phasing is proposed, it should generally be included in the preliminary plat, even though review may be waived until the final plat stage. Proposed land uses and land use mixes shall be identified in the phasing.

(c) Construction Drawings

Construction drawings are the detailed, engineered drawings showing individual lots and all the information necessary to install required public improvements. The construction drawings are combined with the preliminary plat to prepare the final plat.

(d) Final Plat

- (i) The final plat shall be in substantial conformance with the preliminary plat and construction drawings, and include only minor deviations created by final engineering, surveying, or other minor design enhancements. Major changes (e.g., increase in the number of lots, reduction in the amount of open space, significant change in the location of streets, etc.) at final plat stage may, at the discretion of the Planning Director, require re-review of the preliminary plat.
- (ii) All construction of on-site improvements on the land subject to the final plat shall be in accordance with the final plat and engineering. Final engineering may be modified in the field, provided as-built drawings are submitted. As-built drawings must be reviewed by the Technical Review Committee. If unacceptable, the work must be corrected at the developer's expense, prior to accepting improvements and return of any surety.
- (iii) Lots not meeting the standards of this Ordinance shall be considered in violation of this Ordinance and all development

stopped until revised plats meeting the standards of this Ordinance are submitted and approved in accordance with this section. All final plats must be in accordance with applicable state law.

(2) Type I Preliminary Plat Procedure

(a) Pre-Application Conference

Applicable (see Section 2.3.2).

(b) Community Meeting

Not applicable.

(c) Application Submittal and Acceptance

(i) Applicable (see Section 2.3.4). An application for a type I preliminary plat shall also include an application for a use permit where one or more public facilities are within 85 percent of the maximum capacity (see Section 2.4.6, Use Permit).

(ii) Construction drawings may be submitted, at the applicant’s option, concurrently with a type I preliminary plat application.

(d) Staff Review and Action

Applicable (see Section 2.3.5). The Technical Review Committee shall decide an application for a type I preliminary plat in accordance with Section 2.3.5.D, Applications Subject to Decision by Planning Director or Technical Review Committee, and Section 2.4.8.E.4.a, Preliminary Plat Review Standards.

(e) Public Hearing Scheduling and Public Notification

Not applicable (unless a use permit is required).

(f) Public Hearing Procedures

Not applicable (unless a use permit is required).

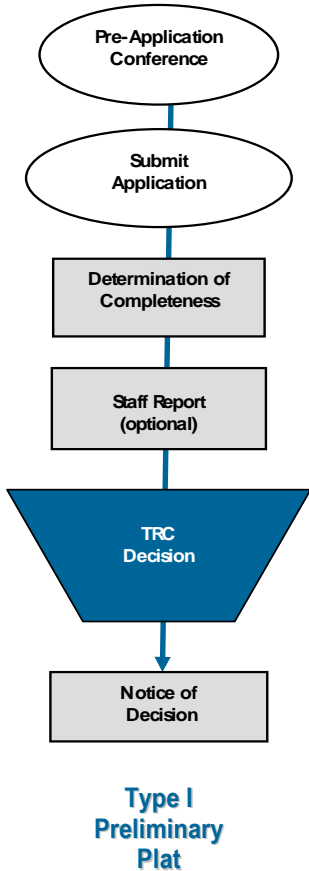
(g) Advisory Body Review and Recommendation

Not applicable.

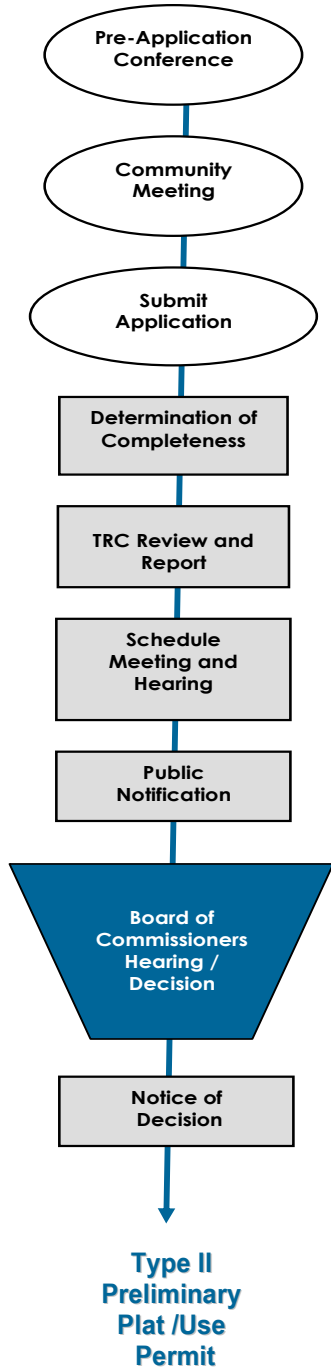
(h) Decision-Making Body Review and Decision

(i) Not applicable unless a use permit is required.

(ii) When a use permit is required, the Board of Commissioners, following a quasi-judicial public hearing (Section 2.3.8.C), shall decide the application in accordance with the standards in Section 2.3.10, Decision-Making Body Review and Decision, Section 2.4.8.E.4.a, Preliminary Plat Review Standards and Section 2.4.6.D, Use Permit Review Standards.



- (iii) The Board of Commissioners may place limitations on the timing and extent of new development in accordance with Section 6.6, Adequate Public Facility Standards.



(3) Type II Preliminary Plat / Use Permit Procedure

(a) Pre-Application Conference

Applicable (see Section 2.3.2).

(b) Community Meeting

Applicable for plats of 50 lots or more (see Section 2.3.3).

(c) Application Submittal and Acceptance

(i) Applicable (see Section 2.3.4). An application for a type II preliminary plat shall also include an application for a use permit (see Section 2.4.6, Use Permit).

(ii) Construction drawings may be submitted concurrently with a type II preliminary plat application, at the applicant’s option.

(d) Staff Review and Action

Applicable (see Section 2.3.5). The Technical Review Committee shall review the application, prepare a staff report, and provide a recommendation on the application in accordance with Section 2.4.8.E.4.a, Preliminary Plat Review Standards, and Section 2.4.6.D, Use Permit Review Standards.

(e) Public Hearing Scheduling and Public Notification

Applicable (see Section 2.3.6).

(f) Public Hearing Procedures

Applicable (see Section 2.3.8).

(g) Advisory Body Review and Recommendation

Not Applicable.

(h) Decision-Making Body Review and Decision

(i) Applicable (see Section 2.3.10). The Board of Commissioners, following a quasi-judicial public hearing (Section 2.3.8.C), shall decide the application in accordance with the standards in Section 2.3.10, Decision-Making Body Review and Decision, Section 2.4.8.E.4.a, Preliminary Plat Review Standards and Section 2.4.6.D, Use Permit Review Standards.

(ii) The Board of Commissioners may place limitations on the timing and extent of new development in accordance with Section 6.6, Adequate Public Facility Standards.

(4) Preliminary Plat Standards, Effect, Amendment, and Expiration

(a) Preliminary Plat Review Standards

An application for a type I or type II preliminary plat shall be approved only upon a finding the applicant demonstrates the preliminary plat complies with:

- (i)** All applicable standards in Chapter 6: Subdivision and Infrastructure Standards, and other applicable standards in this Ordinance;
- (ii)** The standards in 2.4.6.D, Use Permit Standards, if applicable;
- (iii)** The Currituck County Stormwater Manual;
- (iv)** All standards or conditions of any prior applicable development permits and approvals; and
- (v)** All other applicable requirements in the County Code of Ordinances.

(b) Effect of Development Approval

Approval of a type I or type II preliminary plat authorizes:

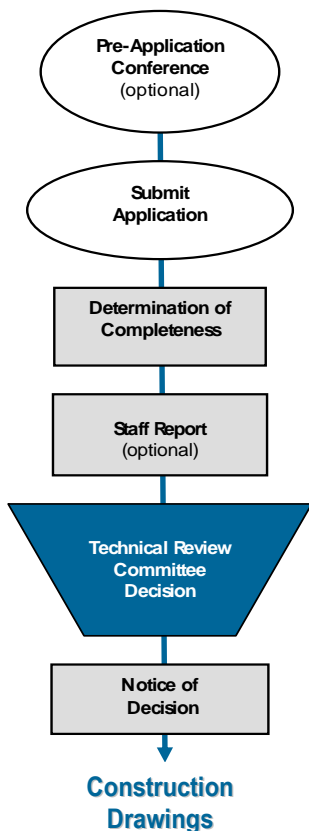
- (i)** The submittal of construction drawings for the subdivision or an approved phase of the subdivision, in accordance with this section; or
- (ii)** Review and decision on construction drawings by the Technical Review Committee, if submitted concurrently with the preliminary plat application.

(c) Amendment of Development Approval

Applicable (see Section 2.3.14).

(d) Expiration of Development Approval

- (i)** Approval of a type I or type II preliminary plat shall automatically expire if a complete application for approval of a final plat is not submitted within two years after the date of approval of the type I or type II preliminary plat.
- (ii)** A subdivider may submit no more than one request for a two-year extension for consideration by the Board of Commissioners prior to the initial expiration. The Board of Commissioners may grant a request for extension for good cause.



(5) Construction Drawings Procedure

(a) Pre-Application Conference

Optional (see Section 2.3.2).

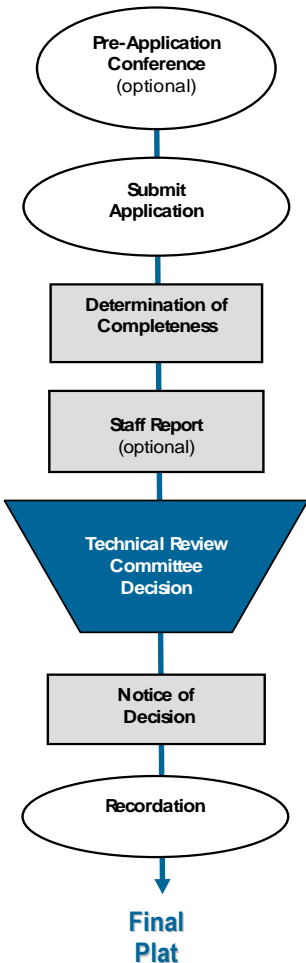
(b) Community Meeting

Not applicable.

(c) Application Submittal and Acceptance

Applicable (see Section 2.3.4).

- (d) Staff Review and Action**
Applicable (see Section 2.3.5). The Technical Review Committee shall review and decide the application in accordance with Section 2.3.5.D, Applications Subject to Decision by Planning Director or Technical Review Committee, and Section 2.4.8.E.5.b, Construction Drawing Review Standards.
 - (e) Public Hearing Scheduling and Public Notification**
Not applicable.
 - (f) Public Hearing Procedures**
Not applicable.
 - (g) Advisory Body Review and Recommendation**
Not applicable.
 - (h) Decision-Making Body Review and Decision**
Not applicable.
- (6) Construction Drawing Standards, Effect, Amendment, and Expiration**
 - (a) Construction Drawing Review Standards**
Construction drawings shall be approved only on a finding the applicant demonstrates the drawings comply with:
 - (i)** The applicable standards in Chapter 6: Subdivision and Infrastructure Standards and all other applicable standards in this Ordinance;
 - (ii)** All standards or conditions of any prior applicable development permits and approvals;
 - (iii)** Sound engineering and construction practices;
 - (iv)** The Currituck County Stormwater Manual; and
 - (v)** All other applicable requirements in the County Code of Ordinances.
 - (b) Effect of Development Approval**
 - (i)** Approval of construction drawings authorizes the submittal of an application for approval of a final plat for the subdivision in accordance with this section.
 - (ii)** Failure to obtain approval of construction drawings prior to the start of the construction of public improvements shall be a violation of this Ordinance and automatically renders the preliminary plat null and void.
 - (c) Amendment of Development Approval**
Applicable (see Section 2.3.14)
 - (d) Expiration of Development Approval**
Construction drawings shall remain valid and in effect as long as the preliminary plat with which they are associated remains valid.



(7) Final Plat Procedure

(a) Pre-Application Conference

Optional (see Section 2.3.2).

(b) Community Meeting

Not applicable.

(c) Application Submittal and Acceptance

Applicable (see Section 2.3.4).

(d) Staff Review and Action

Applicable (see Section 2.3.5). The Technical Review Committee shall review and decide the application in accordance with Section 2.3.5.D, Applications Subject to Decision by Planning Director or Technical Review Committee, and Section 2.4.8.E.6.b, Final Plat Review Standards.

(e) Public Hearing Scheduling and Public Notification

Not applicable.

(f) Public Hearing Procedures

Not applicable.

(g) Advisory Body Review and Recommendation

Not applicable.

(h) Decision-Making Body Review and Decision

Not applicable.

(8) Final Plat Standards, Infrastructure, Effect, Amendment, and Expiration

(a) Final Plat Review Standards

A final plat shall be approved only on a finding the applicant demonstrates the following:

- (i)** The final plat is in substantial conformance with the preliminary plat and construction drawings, Chapter 6: Subdivision and Infrastructure Standards, and all other applicable standards in this Ordinance;
- (ii)** The final plat includes the entire area approved for construction on preliminary plat (by phase); and
- (iii)** All required improvements depicted on the preliminary plat and final plat are installed or subject to a performance guarantee (see Section 6.3).

(b) Acceptance of Public Infrastructure

- (i)** The subdivider shall retain responsibility for public infrastructure until maintenance responsibility is accepted by NCDOT, a homeowner or property owners association, or the county, as appropriate.

- (ii) Approval of a final plat shall not constitute acceptance by the county or other public agency of the offer of dedication of any streets, sidewalks, parks, or other public facilities shown on a plat. However, the county or other public agency may, to the extent of its statutory authority, accept such offer of dedication by resolution of the governing body or by actually exercising control over and maintaining such facilities.
- (c) **Effect of Development Approval**
Approval of a final plat allows the sale or conveyance of lots within the subdivision.
- (d) **Amendment of Development Approval**
Lot sizes may be varied on an approved final plat after recording, provided that:
 - (i) No lot or tract shall be created or sold that is smaller than the size shown on the approved plat;
 - (ii) Drainage easements shall not be changed;
 - (iii) Right-of-ways shall not be changed;
 - (iv) Street alignment and block sizes shall not be changed;
 - (v) The rear portion of lots shall not be subdivided from the front portion; and
 - (vi) The character of the preliminary plat shall be maintained.
- (e) **Expiration of Development Approval**
A final plat shall be recorded with the Currituck County Register of Deeds within 90 days of approval, or it shall be null and void.

2.4.9. Zoning Compliance Permit

A. Purpose

The purpose of a zoning compliance permit is to ensure no development occurs until there is assurance the development complies with the requirements of this Ordinance.

B. Applicability

A zoning compliance permit is required before issuance of a building permit, any change in use, or commencement of activity that does not require issuance of a building permit.

C. Zoning Compliance Permit Procedure

(1) Pre-Application Conference

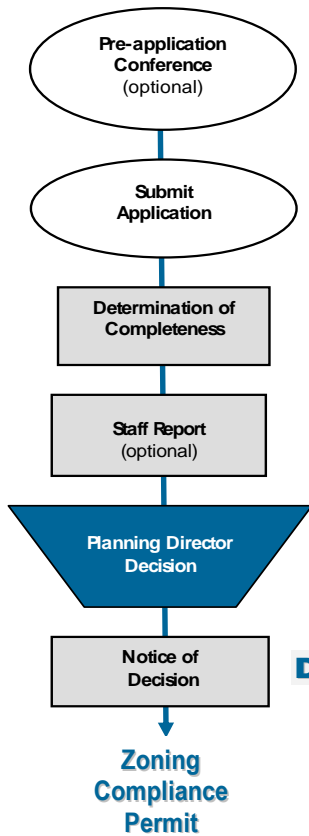
Optional (see Section 2.3.2).

(2) Community Meeting

Not applicable.

(3) Application Submittal and Acceptance

Applicable (see Section 2.3.4). Prior to the issuance of a zoning compliance permit, verification must be submitted by the applicant that the lot will be served by either a state-approved package plant, public sewer facility, or a



waste treatment system complying with the requirements of the Albemarle Regional Health Services, where applicable.

(4) Staff Review and Action

Applicable (see Section 2.3.5). The Planning Director shall review and decide the application in accordance with Section 2.3.5.D, Applications Subject to Decision by Planning Director or Technical Review Committee, and Section 2.4.9.D, Zoning Compliance Permit Review Standards.

(5) Public Hearing Scheduling and Public Notification

Not applicable.

(6) Public Hearing Procedures

Not applicable.

(7) Advisory Body Review and Recommendation

Not applicable.

(8) Decision-Making Body Review and Decision

Not applicable.

D. Zoning Compliance Permit Review Standards

A zoning compliance permit shall be approved upon a finding the applicant demonstrates the proposed development complies with all applicable standards in this Ordinance, the County Code of Ordinances, and all conditions of permits or development approvals approved under this Ordinance.

E. Effect of Development Approval

(1) Approval of a zoning compliance permit authorizes an applicant to apply for a building permit, or to commence construction if the proposed development does not require a building permit.

(2) If the zoning compliance permit application is filed concurrently with a building permit application, approval of the zoning compliance permit authorizes the county to complete its review of the building permit application.

F. Amendment of Development Approval

Applicable (see Section 2.3.14).

G. Expiration of Development Approval

Approval of a zoning compliance permit shall automatically expire if the development activity it authorizes is not commenced within six months after the date of approval.

2.4.10. Sign Permit

A. Purpose

The purpose of this section is to provide a uniform mechanism for reviewing applications for sign permits to ensure all signs comply with the standards of Section 5.12, Signage.

B. Applicability

(1) In General

All signs, unless exempted in accordance with subsection B.2 below, shall obtain a sign permit in accordance with the procedures and standards of this section before being erected, replaced, relocated, or altered.

(2) Exemptions

(a) Signs identified in Section 5.12.3, Signs Exempt from Signage Regulations, are exempt from the signage regulations in this Ordinance.

(b) Signs identified in Section 5.12.4, Signs Exempted from Sign Permit Requirements, are exempt from the requirement to obtain a sign permit in accordance with this section, but are required to comply with all other standards in Section 5.12, Signage.

C. Sign Permit Procedure

(1) Pre-Application Conference

Optional (see Section 2.3.2).

(2) Community Meeting

Not applicable.

(3) Application Submittal and Acceptance

Applicable (see Section 2.3.4).

(4) Staff Review and Action

Applicable (see Section 2.3.5). The Planning Director shall review and decide the application in accordance with Section 2.3.5.D, Applications Subject to Decision by Planning Director or Technical Review Committee, and Section 2.4.10.D, Sign Permit Review Standards.

(5) Public Hearing Scheduling and Public Notification

Not applicable.

(6) Public Hearing Procedures

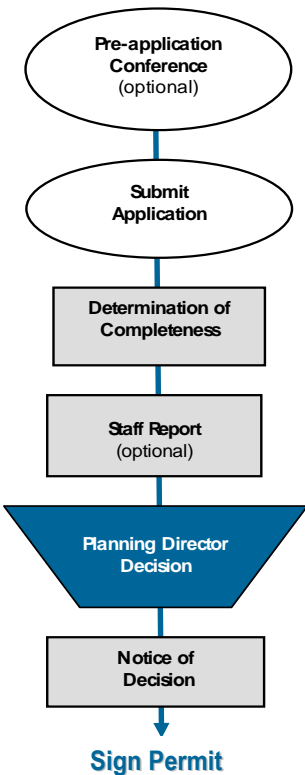
Not applicable.

(7) Advisory Body Review and Recommendation

Not applicable.

(8) Decision-Making Body Review and Decision

Not applicable.



D. Sign Permit Review Standards

A sign permit shall be approved only upon a finding the application complies with the standards in Section 5.12, Signage, all relevant standards of this Ordinance, applicable standards from the North Carolina State Building Code, and any other applicable county requirements or applicable conditions of approval.

E. Effect of Development Approval

Applicable (see Section 2.3.13).

F. Amendment of Development Approval

Applicable (see Section 2.3.14).

G. Expiration of Development Approval

- (1)** A sign permit shall expire within six months from the date of issuance unless work authorized by the permit has been started.
- (2)** Work associated with a sign permit shall be completed within twelve months of the date of issuance or the sign permit shall be void.

2.4.11. Temporary Use Permit

A. Purpose

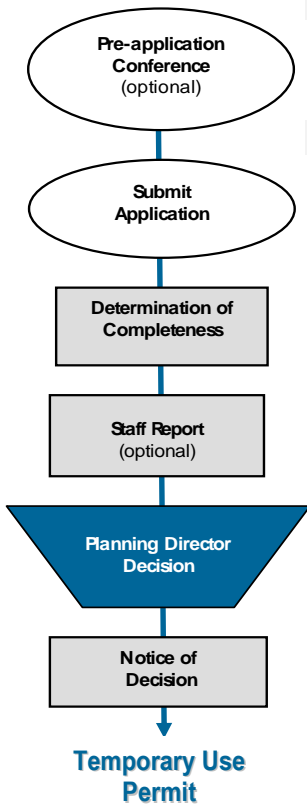
The purpose of this subsection is to establish a uniform mechanism for reviewing temporary uses and structures, and special events to ensure they comply with the standards in Section 4.4, Temporary Use Standards.

B. Applicability

The provisions of this section shall apply to all proposed temporary uses, temporary structures, and special events set forth in Section 4.4, Temporary Use Standards.

C. Temporary Use Permit Procedure

- (1) Pre-Application Conference**
Optional (see Section 2.3.2).
- (2) Community Meeting**
Not applicable (see Section 2.3.3).
- (3) Application Submittal and Acceptance**
Applicable (see Section 2.3.4).
- (4) Staff Review and Action**
Applicable (see Section 2.3.5). The Planning Director shall review and decide the application in accordance with Section 2.3.5.D, Applications Subject to Decision by Planning Director or Technical Review Committee, Section 2.4.11.D, Temporary Use Permit Review Standards, and all other applicable standards in this Ordinance and the County Code of Ordinances.
- (5) Public Hearing Scheduling and Public Notification**
Not applicable.
- (6) Public Hearing Procedures**
Not applicable.
- (7) Advisory Body Review and Recommendation**
Not applicable.
- (8) Decision-Making Body Review and Decision**
Not applicable.



D. Temporary Use Permit Review Standards

A Temporary Use Permit shall be approved on a finding the applicant demonstrates the proposed temporary use, temporary structure, or special event complies with the relevant standards in Section 4.4, Temporary Use Standards.

E. Effect of Development Approval

Applicable (see Section 2.3.13).

F. Amendment of Development Approval

Applicable (see Section 2.3.14).

G. Expiration of Development Approval

Approval of a temporary use permit shall be effective beginning on the date of approval and shall remain effective for the period indicated in the permit.

2.4.12. Floodplain Development Permit

A. Purpose

The purpose of the floodplain development permit is to establish procedures and standards for the review of development located within the special flood hazard area, to reduce the potential for damage to property and life from flooding or floodwaters.

B. Applicability

All development proposed in the special flood hazard area shall obtain a floodplain development permit and applicable flood certificates/certifications in accordance with this section and Section 7.4, Flood Damage Prevention, prior to or concurrent with an application for a site plan, building permit, or zoning compliance permit, as appropriate.

C. Floodplain Development Permit Procedure

(1) Pre-Application Conference

Optional (see Section 2.3.2).

(2) Community Meeting

Not applicable.

(3) Application Submittal and Acceptance

Applicable (see Section 2.3.4).

(4) Staff Review and Action

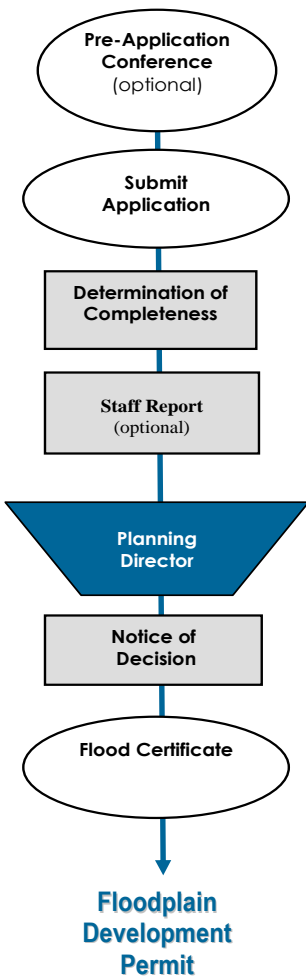
Applicable (see Section 2.3.5). The Planning Director shall review and decide the application in accordance with Section 2.3.5.D, Applications Subject to Decision by Planning Director or Technical Review Committee, and Section 2.4.12.D, Floodplain Development Permit Review Standards.

(5) Public Hearing Scheduling and Public Notification

Not applicable.

(6) Public Hearing Procedures

Not applicable.



SECTION 2.4: SPECIFIC REVIEW PROCEDURES

Subsection 2.4.12: Floodplain Development Permit

(7) Advisory Body Review and Recommendation

Not applicable.

(8) Decision-Making Body Review and Decision

Not applicable.

D. Floodplain Development Permit Review Standards

A floodplain development permit shall be approved only upon a finding that all of the following standards are met:

- (1)** The permit is issued prior to the commencement of development;
- (2)** The development proposed within the special flood hazard area complies with the standards in Section 7.4, Flood Damage Prevention, and all other applicable standards in this Ordinance and the County Code of Ordinances; and
- (3)** The floodplain development permit includes:
 - (a)** A description of development to be permitted under the floodplain development permit.
 - (b)** The special flood hazard area determination for the proposed development in accordance with available data specified in Section 7.4, Flood Damage Prevention.
 - (c)** The regulatory flood protection elevation required for the reference level, all attendant utilities, and the protection of all public utilities as applicable.
 - (d)** All certification submittal requirements with appropriate timelines.
 - (e)** A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
 - (f)** Flood openings requirements, if in flood zones A or AE.

E. Effect of Approval

Approval of a floodplain development permit authorizes an applicant to obtain all required elevation certificates or other required certificates and proceed with construction following issuance of a building permit.

F. Amendment of Approval

Applicable (see Section 2.3.14).

G. Expiration of Approval

Approval of a floodplain development permit shall automatically expire if the development activity it authorizes is not commenced within six months after the date of approval.

2.4.13. Clear-Cutting Permit

A. Purpose

This section is intended to ensure that development and clear-cutting activities comply with the tree protection standards in this Ordinance.

B. Applicability

(1) In General

Except for development exempted in accordance with sub-section (2) below, a clear-cutting permit is required before any clear-cutting or significant land-disturbing activities. For the purposes of this sub-section, “significant land-disturbing activities” shall include but not be limited to deposition or removal of fill, grading or grubbing of a site, or trenching.

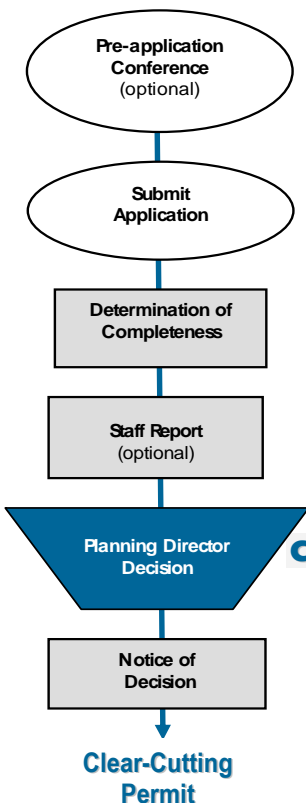
(2) Exemptions

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 platted prior to January 1, 2013;
- (e)** Land-disturbing activities and tree removal in accordance with a site plan, preliminary plat, or building permit approved after January 1, 2013;
- (f)** Removal of trees as necessary to maintain safe operations at the Currituck County Airport;
- (g)** Land-disturbing activities and tree removal on unbuildable lands;
- (h)** The removal of vegetation by public or private agencies within the lines of any right-of-way, easement, or other county-owned lands as may be necessary to ensure public safety; and
- (i)** Land disturbing activities undertaken on land under agricultural, horticultural, or forest production and taxed at present-use value in accordance with Sections 105-277.2 through 277.7 of the North Carolina General Statutes.

C. Clear-Cutting Permit Procedure

- (1) Pre-Application Conference**
Optional (see Section 2.3.2).
- (2) Community Meeting**
Not applicable.
- (3) Application Submittal and Acceptance**
Applicable (see Section 2.3.4).



(4) Staff Review and Action

Applicable (see Section 2.3.5). The Planning Director shall review and decide the application in accordance with Section 2.3.5.D, Applications Subject to Decision by Planning Director or Technical Review Committee, and Section 2.4.13.D, Clear-Cutting Permit Review Standards.

(5) Public Hearing Scheduling and Public Notification

Not applicable.

(6) Public Hearing Procedures

Not applicable.

(7) Advisory Body Review and Recommendation

Not applicable.

(8) Decision-Making Body Review and Decision

Not applicable.

D. Clear-Cutting Permit Review Standards

A clear-cutting permit shall be approved only upon a finding that all of the following standards are met:

(1) All healthy heritage 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 7.2.3.E, Replacement/Mitigation of Heritage Trees, has been approved by the Planning Director.

(2) A tree protection zone around all heritage trees to be preserved is established consistent with the requirements in Section 7.2, Tree Protection.

(3) In the event a tract or site proposed for tree removal or other land-disturbing activity contains no heritage trees, the clear cutting permit shall indicate that no tree protection zones are required.

E. Effect of Development Approval

Applicable (see Section 2.3.13).

F. Amendment of Development Approval

Applicable (see Section 2.3.14).

G. Expiration of Development Approval

A clear-cutting permit expires six months after its approval.

2.4.14. Variance

A. Purpose

The purpose of a variance is to allow certain deviations from the dimensional standards of this Ordinance (such as height, yard setback, lot coverage, or similar numerical standards) when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner's control (such as topographical conditions, narrowness, shallowness, or 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. This

section also includes standards for variance from the county’s flood damage prevention standards in Section 7.4.

B. Applicability

The variance procedure may be used to seek hardship relief from the dimensional, numerical, and flood damage prevention standards in this Ordinance. No variance may be sought that increases development density (e.g., units per acre) beyond that allowed in a base zoning district, or increases the number of a particular type of sign beyond that allowed by signage standards. In addition, no variance may be sought that would permit a use not allowed in a zoning district, or would have the effect of allowing a prohibited use or a prohibited sign.

C. Variance Procedure

(1) Pre-Application Conference

Optional (see Section 2.3.2).

(2) Community Meeting

Not Applicable.

(3) Application Submittal and Acceptance

Applicable (see Section 2.3.4). The Planning Director shall review the application, prepare a staff report, and provide a recommendation in accordance with Section 2.3.5.B, Staff Report and Recommendation, and Section 2.4.16.D, Variance Review Standards.

(4) Staff Review and Action

Applicable (see Section 2.3.5).

(5) Public Hearing Scheduling and Public Notification

Applicable (see Section 2.3.6).

(6) Public Hearing Procedures

Applicable (see Section 2.3.8).

(7) Advisory Body Review and Recommendation

Not applicable.

(8) Decision-Making Body Review and Decision

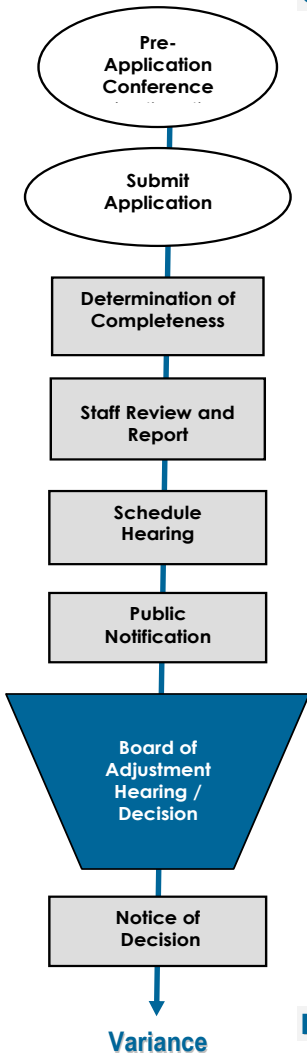
Applicable (see Section 2.3.10). The Board of Adjustment, following a quasi-judicial public hearing (see Section 2.3.8.C), shall decide the application in accordance with Section 2.3.10, Decision-Making Body Review and Decision, Section 2.4.16.D, Variance Review Standards, or Section 2.4.16.2.F, Standards for Flood Damage Prevention Ordinances, as appropriate.

D. Variance Review Standards

A variance shall be approved on a finding the applicant demonstrates all of the following standards are met:

(1) The alleged hardship is suffered by the applicant as a result of the application of this Ordinance;

(2) The hardship relates to the applicant's land, such as location, size, or topography, rather than personal circumstances;



SECTION 2.4: SPECIFIC REVIEW PROCEDURES

Subsection 2.4.14: Variance

- (3)** The hardship is unique, or nearly so, rather than one shared by many surrounding properties;
- (4)** The hardship is not the result of the applicant's own actions;
- (5)** The variance will not authorize the initiation of a nonconforming use of land; and
- (6)** The requested variance is consistent with the spirit, purpose, and intent of this Ordinance, such that public safety is secured, and substantial justice is achieved.

E. Not Grounds for a Variance

The following factors do not 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.

F. Variances from Flood Damage Prevention Standards

(1) Eligibility for Variance

The following forms of development are eligible to request a variance from the flood damage prevention standards in Section 7.4, Flood Damage Prevention:

- (a)** Repair or rehabilitation of historic structures, upon determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
- (b)** Functionally dependent facilities, provided they are protected by methods that minimize flood damage during the base flood and create no additional threats to public safety; or
- (c)** Any other type of development, provided it meets the standards of this section.

(2) Standards for Flood Damage Prevention Variances

A flood damage prevention variance shall be approved on a finding the applicant demonstrates all of the following standards are met:

- (a)** There is a good and sufficient cause to grant the variance.
- (b)** Failure to grant the variance would result in exceptional hardship.
- (c)** The variance is the minimum necessary, considering the flood hazard, to afford relief.
- (d)** Approval of the variance will not render the building in violation of applicable Federal, State, or local requirements.

- (e) Granting the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with this Ordinance.
 - (f) Approval of the variance will not result in any increase in flood levels within any designated floodway or non-encroachment area during the base flood discharge.
 - (g) The variance is issued prior to development permit approval.
- (3) Grounds for Denial of a Flood Damage Prevention Variance Request**
All of the following factors shall be taken into account when denying a request for a flood damage prevention variance:
- (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location as a functionally-dependent facility;
 - (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the Land Use Plan and the county's floodplain management program;
 - (i) The safety of access to the use in times of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (4) Conditions of Approval**
Upon consideration of the standards in Section (2) above and the purposes of this Ordinance, the BOA may attach such conditions to the variance as it deems necessary to further the purposes and objectives of this Ordinance.
- (5) Notification Regarding Flood Insurance Costs**
- (a) Any applicant to whom a flood damage prevention variance is granted shall be given written notice specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a

SECTION 2.4: SPECIFIC REVIEW PROCEDURES

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structure below the BFE will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage.

- (b)** Such notification shall be maintained with the record of the variance action.

(6) Records

Upon request, the Planning Director shall report any flood damage prevention variance approvals to the Federal Emergency Management Agency and the State of North Carolina.

G. Effect of Development Approval

Approval of a variance authorizes only the particular regulatory relief approved. It does not exempt the applicant from the responsibility to obtain all other approvals required by this Ordinance and any other applicable laws, and does not indicate that the development for which the variance is granted should receive other development permits or approvals under this Ordinance unless the relevant and applicable portions of this Ordinance or any other applicable laws are met.

H. Amendment of Development Approval

Applicable (see Section 2.3.14).

I. Expiration of Development Approval

Unless it expires in accordance with Section 2.3.15, Expiration of a Development Approval, a variance, including any conditions of approval, shall run with the land, shall be binding on the landowners and their successors and assigns, and shall not be affected by a change in ownership.

2.4.15. Administrative Adjustment

A. Purpose

The purpose of this section is to provide an administrative mechanism for allowing minor variations, or adjustments, to certain numerical standards (i.e., setbacks) of the zoning provisions 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.

B. Timing

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

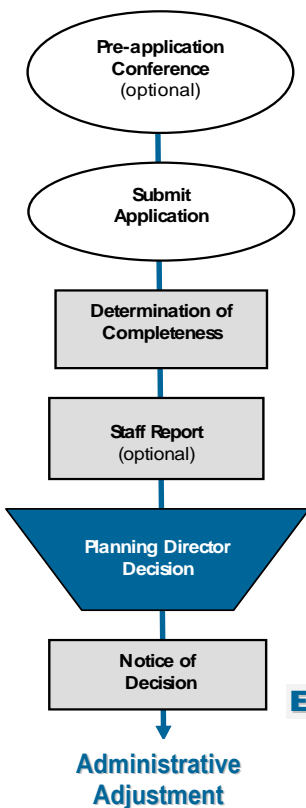
C. Applicability

Administrative adjustments may be requested and granted for the following standards in this Ordinance:

- (1) Modifications in building height by up to 15 percent;
- (2) Modifications in a building setback by up to 20 percent in Full Service areas designated on the future land use map of the 2006 Land Use Plan;
- (3) Modifications in building setbacks by up to 15 percent outside Full Service areas; and
- (4) Modifications in major arterial street setbacks by up to 40 percent.

D. Administrative Adjustment Procedure

- (1) **Pre-Application Conference**
Optional (see Section 2.3.2).
- (2) **Community Meeting**
Not applicable.
- (3) **Application Submittal and Acceptance**
Applicable (see Section 2.3.4).
- (4) **Staff Review and Action**
Applicable (see Section 2.3.5). The Planning Director shall review and decide the application in accordance with Section 2.3.5.D, Applications Subject to Decision by Planning Director or Technical Review Committee, and Section 2.4.15.E, Administrative Adjustment Review Standards.
- (5) **Public Hearing Scheduling and Public Notification**
Applicable (see Section 2.3.6).
- (6) **Public Hearing Procedures**
Not applicable.
- (7) **Advisory Body Review and Recommendation**
Not applicable.
- (8) **Decision-Making Body Review and Decision**
Not applicable.



E. Administrative Adjustment Review Standards

An application for an administrative adjustment shall be approved upon a finding the applicant demonstrates all of the following standards are met:

- (1) The administrative adjustment does not exceed:
 - (a) Modifications in building height by up to 15 percent;
 - (b) Modifications in a building setback by up to 20 percent in Full Service areas designated on the future land use map of the 2006 Land Use Plan;

- (c) Modifications in building setbacks by up to 15 percent in all other areas in the county;
- (d) Modifications in major arterial street setbacks by up to 40 percent, provided the structure maintain a minimum distance of at least 20 feet from the major arterial street;
- (2) The administrative adjustment is consistent with the character of development on surrounding land, and is compatible with surrounding land uses;
- (3) The administrative adjustment is either:
 - (a) Required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general;
 - (b) Supports an objective or goal from the purpose and intent statements of the zoning district where it is located; or
 - (c) Saves healthy existing trees;
- (4) The administrative adjustment will not pose a danger to the public health or safety;
- (5) Any adverse impacts will be mitigated, to the maximum extent practicable; and
- (6) The site is not subject to a series of multiple, incremental administrative adjustments that result in a reduction in development standards by the maximum allowed.

F. Effect of Development Approval

Applicable (see Section 2.13.13)

G. Amendment of Development Approval

Applicable (see Section 2.3.14).

H. Expiration of Development Approval

Unless otherwise specified in the approval, an application for a building permit shall be approved within one year of the date of the approval of the administrative adjustment, or the administrative adjustment shall become null and void, and automatically expire. Permitted timeframes do not change with successive owners.

2.4.16. Interpretation

A. Purpose

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

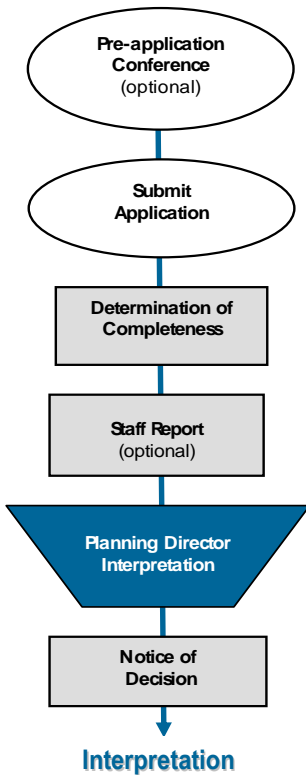
B. Applicability

The Planning Director is responsible for making interpretations of all provisions of this Ordinance, including, but not limited to:

- (1) Interpretations of the text;
- (2) Interpretations of the zoning district boundaries;

- (3) Interpretations of whether an unlisted use in Table 4.1.1. Summary Use Table, is comparable to a listed use or not, and should be allowed in a zoning district or prohibited in that district; and
- (4) Interpretations of compliance with a condition of approval.

C. Interpretation Procedure



- (1) **Pre-Application Conference**
Optional (see Section 2.3.2).
- (2) **Community Meeting**
Not applicable.
- (3) **Application Submittal and Acceptance**
Applicable (see Section 2.3.4). An application for a formal written interpretation may be initiated by the Board of Commissioners, the Planning Board, any resident or landowner in the county, or any person having a contractual interest in land in the county.
- (4) **Staff Review and Action**
 - (a) Applicable (see Section 2.3.5). The Planning Director shall review the request and make interpretations in accordance with Section 2.3.5.D, Applications Subject to Decision by Planning Director or Technical Review Committee, and Section 2.4.16.D, Interpretation Review Standards.
 - (b) Prior to rendering an interpretation the Planning Director shall consult with the County Attorney and other affected county officials.
- (5) **Public Hearing Scheduling and Public Notification**
Not applicable.
- (6) **Public Hearing Procedures**
Not applicable.
- (7) **Advisory Body Review and Recommendation**
Not applicable.
- (8) **Decision-Making Body Review and Decision**
Not applicable.

D. Interpretation Review Standards

- (1) **Zoning District Map Boundaries**
Interpretation of zoning district boundaries on the Official Zoning Map shall be in accordance with the standards in Section 1.7.3, Interpretation of Official Map Boundaries, and consistent with the Land Use Plan.
- (2) **Unspecified Uses**
Interpretation of whether an unspecified use is similar to a use identified in Table 4.1.1, Summary Use Table, or is prohibited in a zoning district shall be based on Section 10.4.1.D, Interpretation of Unlisted Uses, and consistency with the Land Use Plan.

(3) Text Provisions

Interpretation of the text and its application shall be based on the standards in Section 10.1, 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 Section 10.5, 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;
- (c)** The general purposes served by this Ordinance, as set forth in Section 1.3, General Purpose and Intent; and
- (d)** Consistency with the Land Use Plan.

E. Effect of Interpretation

A written interpretation shall be binding on subsequent decisions by the Planning Director or other county administrative officials in applying the same provision of this Ordinance or the Official Zoning Map in the same circumstance, unless the Interpretation is modified in accordance with this section, or the text of this Ordinance is modified.

F. Official Record

The Planning Director shall maintain a record of written interpretations that shall be available in the Planning and Community Development Department for public inspection, on reasonable request, during normal business hours.

2.4.17. Appeal**A. Purpose**

The purpose of this section is to establish a procedure and standards for an aggrieved party affected by any decision or interpretation by a county official to determine if the decision or interpretation complies with the requirements of this Ordinance.

B. Initiation

An appeal shall be initiated by filing a written Notice of Appeal with the Planning Director within:

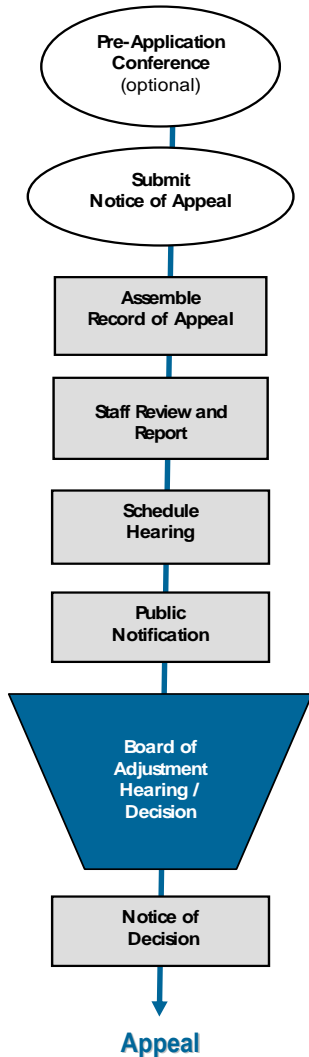
- (1)** Thirty days of the date of the interpretation or decision, or notice of violation being appealed.

C. Appeal Procedure**(1) Pre-Application Conference**

Optional (see Section 2.3.2).

(2) Community Meeting

Not applicable.



(3) Application Submittal and Acceptance

Applicable (see Section 2.3.4). The written Notice of Appeal shall include a statement of the error or improper decision or interpretation, the date of that decision, the grounds for the appeal, and all related support materials.

(4) Staff Review and Action

Applicable (see Section 2.3.5). On accepting a Notice of Appeal application, the Planning Director shall transmit the appeal and the record of material considered by the decision-maker in making the decision or interpretation (including but not limited to, for example, the application and support materials, staff report, other plans, documents, reports, and studies considered in making the decision, and any minutes, transcripts, or record of the meetings held to consider and make the decision). These materials, plus the Land Use Plan and this Ordinance, shall constitute the record of the appeal.

(5) Public Hearing Scheduling and Public Notification

Applicable (see Section 2.3.6). The Planning Director shall provide notice of the public hearing to the applicant for the decision being appealed, if different from the appellant.

(6) Public Hearing Procedures

Applicable (see Section 2.3.8). The public hearing shall be on the record of the appeal, with presentations limited to arguments on the record of the appeal as it relates to the grounds for appeal specified in the appeal application.

(7) Advisory Body Review and Recommendation

Not applicable.

(8) Decision-Making Body Review and Decision

(a) Applicable (see Section 2.3.10). The Board of Adjustment, following a quasi-judicial public hearing (see Section 2.3.8.C) shall decide the application for the appeal. The decision shall be based solely on the record of the appeal, as supplemented by arguments presented at the public hearing, and the standards in Section 2.4.17.D, Appeal Review Standards. The decision shall be one of the following:

- (i)** Affirmation of the decision or interpretation (in whole or in part);
- (ii)** Modification of the decision or interpretation (in whole or in part); or
- (iii)** Reversal of the decision or interpretation (in whole or in part).

D. Appeal Review Standards

(I) The Board of Adjustment is limited to the following determinations in considering the appeal, which shall be based on clear and substantial evidence in the record:

- (a)** The decision-maker did not make an error or correctly applied the standards of this Ordinance in making the decision or interpretation;
- (b)** The decision-maker made an error in determining whether a standard was met. The record must indicate that an error in judgment

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occurred or facts, plans, or regulations were misread in determining whether the particular standard was or was not met;

- (c)** The decision-maker made the decision based on a standard not contained in this Ordinance or other appropriate county ordinances, regulations, or state law, or that a standard more strict or broad than the standard established in this Ordinance was applied; or
 - (d)** The decision-maker made an error in applying a standard or measuring a standard.
- (2)** Where conflicting evidence exists, the appeal is limited to determining what evidence or testimony bears the greatest credibility in terms of documentation and qualifications of those making the determination.
 - (3)** The Board of Adjustment shall not hear any evidence or make any decision based on hardships or special conditions. (Such matters may only be considered in the context of an application for a variance or use permit.)

E. Effect of Appeal

An appeal shall stay all administrative proceedings by the county in furtherance of the action appealed, unless the Planning Director certifies that a stay would cause imminent peril to life or property, in which case the administrative proceedings shall not be stayed unless a restraining order is granted by the Superior Court for Currituck County.

F. Amendment of Appeal

Not applicable.

G. Expiration of Appeal

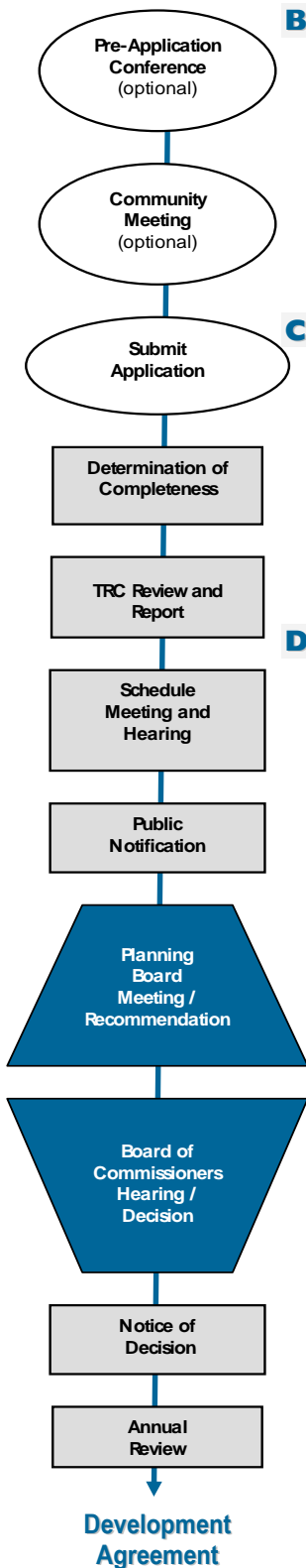
Not applicable.

2.4.18. Development Agreement

A. Purpose

The purpose and intent of this section is to authorize development agreements to be entered into between a developer and the Board of Commissioners in accordance with the terms of this section to:

- (1)** Encourage comprehensive planning and capital facilities planning;
- (2)** Ensure the provision of adequate public facilities for development;
- (3)** Encourage the efficient use of resources, while providing certainty in the process of obtaining development permits and approvals; and
- (4)** Reduce the economic costs of development by providing greater regulatory certainty.



B. Findings

The Board of Commissioners finds and determines that development agreements may be useful to both Currituck County and developers by providing more regulatory certainty, establishing a schedule for development, and assisting both developers and the county coordinate the provision of adequate public facilities to serve development, coordinate the phasing of development, and administer and manage efforts to maintain open space and environmentally sensitive lands.

C. Authority

The county may enter into a development agreement with a developer, subject to the procedures and standards of Part 3A of Article 18 of Chapter 153A of the North Carolina General Statutes. In entering into a development agreement, the county may not exercise any authority or make any commitment not authorized by general or local act, and may not impose any tax or fee not authorized by otherwise applicable law.

D. Development Agreement Procedure

- (1) Pre-Application Conference**
Optional (see Section 2.3.2).
- (2) Community Meeting**
Optional (see Section 2.3.3).
- (3) Application Submittal and Acceptance**
Applicable (see Section 2.3.4).
- (4) Staff Review and Action**
Applicable (see Section 2.3.5). The Technical Review Committee shall review the application, prepare a staff report, and provide a recommendation in accordance with Section 2.3.5.B, Staff Report and Recommendation, and Section 2.4.18.E, Development Agreement Review Standards.
- (5) Public Hearing Scheduling and Public Notification**
Applicable (see Section 2.3.6).
- (6) Public Hearing Procedures**
Applicable (see Section 2.3.8).
- (7) Advisory Body Review and Recommendation**
Applicable (see Section 2.3.9). The Planning Board, following a public meeting, shall make a recommendation on the application in accordance with Section 2.3.9, Advisory Body Review and Recommendation, and Section 2.4.18.E, Development Agreement Review Standards.
- (8) Decision-Making Body Review and Decision**
Applicable (see Section 2.3.10). The Board of Commissioners, following a legislative public hearing (Section 2.3.8.B), shall decide the application in accordance with Section 2.3.10, Decision-Making Body Review and Decision, and Section 2.4.18.E, Development Agreement Review Standards. The action taken shall be one of the following:

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- (a) Enter into the Development Agreement, as submitted;
 - (b) Enter into the Development Agreement, subject to modifications agreed to in writing by the developer; or
 - (c) Not enter into the Development Agreement.
- (9) Recordation**
Within 14 days after entering into a development agreement, the applicant shall record the agreement with the Currituck County Register of Deeds.

E. Development Agreement Review Standards

For consideration of the county to participate in a development agreement, a development subject to the agreement must meet the following:

- (1)** The property subject to the Development Agreement shall contain 25 acres or more of developable property (exclusive of wetlands, mandatory buffers, unbuildable slopes, and other portions of the property that may be precluded from the property at the time of application).
- (2)** The development shall demonstrate phasing, and participation in the proposed agreement shall not exceed 20 years.
- (3)** The development shall demonstrate the impact on existing and future provisions of capital improvements by the county, including at least one of the following: transportation, potable water, sanitary sewer, solid waste, stormwater management, educational, parks and recreational, and health systems and facilities.

F. Effect of Development Agreement

- (1) Burdens and Benefits**
The burdens of the development agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.
- (2) Rights and Obligations**
Rights and obligations established by a development agreement shall not preclude or supersede rights and obligations established pursuant to other law regarding building permits, site specific development plans, phased development plans, or other provisions of law.
- (3) Building and Housing Code**
A Development Agreement shall not exempt the property owner or developer from compliance with the State Building Code or the county's Minimum Housing Code.
- (4) Identify Subsequently Enacted Laws**
Unless the development agreement specifically provides for the application of subsequently enacted laws, the laws applicable to development of the property subject to a development agreement are those in force at the time of execution of the agreement.
- (5) Application of Subsequently Adopted Laws**
Except for grounds specified in Section 153A-344.1(e) of the North Carolina General Statutes, the county may not apply subsequently adopted ordinances

or development policies to a development that is subject to a development agreement.

(6) Change in State or Federal Law

If state or federal law is changed after a development agreement has been entered into and the change prevents or precludes compliance with one or more provisions of the development agreement, the county, by ordinance after notice and a hearing, may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the development agreement.

(7) Vested Rights

This Ordinance does not abrogate any rights preserved by Sections 153A-344 or 153A-344.1 of the North Carolina General Statutes, or that may vest pursuant to common law or otherwise in the absence of a development agreement.

G. Approval of Debt

If any of the obligations of the county in the development agreement constitute debt, the county shall comply, at the time of the obligation to incur the debt and before the debt becomes enforceable against the county, with any applicable constitutional and statutory procedures for the approval of the debt. The agreement shall be signed by the County Attorney, Finance Director, and County Manager.

H. Periodic Review and Breach of Agreement

(1) Annual Review

During any period of time in which a permit or development approval subject to a development agreement is active, the county shall review the development at least once every 12 months for compliance with the agreement. The developer must demonstrate good faith compliance with the terms of the development agreement. Failure to meet a commencement or completion date specified in the development agreement shall not, in and of itself, constitute a material breach of the agreement, but must be judged based upon the totality of the circumstances.

(2) Material Breach

If the county finds and determines that the developer has committed a material breach of the terms or conditions of the development agreement, the county shall serve written notice of the breach upon the developer within a reasonable time after the periodic review. Such notice shall set forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and shall provide the developer a reasonable time in which to cure the material breach.

(3) Failure to Cure Material Breach

If the developer fails to cure the material breach within the time given, then the county unilaterally may terminate or modify the development agreement.

(4) Appeal

The notice of termination or modification may be appealed to the Board of Adjustment for review and decision in accordance with Section 2.4.17, Appeal.

I. Amendment

(1) Mutual Consent

A development agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest.

(2) Major Modification

Consideration of a proposed major modification of a development agreement shall follow the same procedures as required for initial approval of the agreement.

(3) Minor Modification

The Planning Director may approve minor modifications of the development agreement with the mutual consent of the other parties to the agreement, without following the same procedures as required for initial approval of the agreement, upon making written findings that the proposed modifications would not significantly change the use, intensity, or design of the development, would be consistent with the purposes and goals of the agreement, would comply with this Ordinance, and would not adversely affect the public health, safety, or general welfare.

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