



Currituck County

Unified Development Ordinance

Module I: Administration

Public Review Draft

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CLARION

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GENERAL PROVISIONS

COMMENTARY:

Chapter 1: General Provisions, contains important general provisions that are relevant to the Unified Development Ordinance (UDO) as a whole. Some of the separate provisions already exist in the county's existing UDO, while others do not.

Specifically, this chapter includes sections that:

- Establish the title, or official name of the document;
- Identify the statutory authority of the county to adopt the UDO;
- Provide the general purpose and intent of the Board of Commissioners in establishing the UDO;
- Set out who is subject to the UDO;
- Identify county-adopted plans that serve as policy guides to administration of the UDO;
- Clarify that the stricter provision applies if UDO provisions conflict with other regulations;
- Formally adopt and incorporate by reference the Official Zoning Map and provide rules for interpreting zoning district boundaries;
- Show how previous zoning districts translate to new zoning districts;
- Establish rules governing the rights of development approved under previous ordinances and pending development applications submitted before the effective date of the new UDO;
- Reference processes for vesting of development rights; and
- Provide a severability provision.

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CHAPTER I.

GENERAL PROVISIONS

I.1. TITLE

This Ordinance shall be officially known as the “Unified Development Ordinance of Currituck County, North Carolina” and may be referred to as “the Unified Development Ordinance” or “this Ordinance” or the “UDO.”

I.2. AUTHORITY

I.2.1. General Authority

This Ordinance consolidates the county’s zoning, subdivision, and flood damage prevention regulatory authority as authorized by the North Carolina General Statutes and is adopted in accordance with:

- A.** The authority granted to Currituck County by the General Assembly of the State of North Carolina;
- B.** The North Carolina General Statutes, including:
 - (1)** Chapter 153A, Article 6 (General Police Powers);
 - (2)** Chapter 153A, Article 18 (Planning and Regulation of Development);
 - (3)** Chapter 113A, Article 4 (Sedimentation and Pollution Control);
 - (4)** Chapter 143, Article 21, Part 6 (Floodway Regulations);
- C.** All other relevant laws of the State of North Carolina.

I.2.2. References to North Carolina General Statutes

Whenever any provision of this Ordinance refers to or cites a section of the North Carolina General Statutes and that section is later amended or superseded, this Ordinance shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

I.3. GENERAL PURPOSE AND INTENT

The purpose of this Ordinance is to protect the public health, safety, and general welfare of the citizens and landowners of Currituck County, and to implement the policies and objectives of county-adopted plans addressing the county’s growth and development. The intent of this Ordinance is more specifically to:

- A.** Foster convenient, compatible, and efficient relationships among land uses;
- B.** Establish new compact, mixed-use community centers in key locations;
- C.** Better manage or lessen congestion in the streets;
- D.** Ensure the provision of adequate open space between uses for light, air, and fire safety;

CHAPTER I: GENERAL PROVISIONS

SECTION I.4: APPLICABILITY AND JURISDICTION

Subsection I.4.1: General Applicability

- E.** Improve development quality and the quality of life for county residents and visitors;
- F.** Prevent the overcrowding of land and avoid undue concentrations of population;
- G.** Preserve the character and quality of residential communities while providing increased housing choices;
- H.** Promote desirable living conditions and the sustained stability of communities;
- I.** Protect the county's rural character and agricultural heritage;
- J.** Facilitate the adequate provision of transportation, utilities, parks, recreation, emergency services, and other public facilities;
- K.** Maintain and enhance the character of various districts within the county through an emphasis on design quality;
- L.** Maintain and protect high quality aesthetic standards for development;
- M.** Conserve the value of buildings and land;
- N.** Conserve the natural resources and environmental quality of the county and its environs, particularly in the Outer Banks;
- O.** Protect development and residents from flooding and other natural hazards; and
- P.** Incorporate and foster sustainable development practices.

I.4. APPLICABILITY AND JURISDICTION

I.4.1. General Applicability

This Ordinance applies to the development of all lands within the County of Currituck, unless land or development is expressly exempted by a specific section or subsection of this Ordinance.

I.4.2. Exemptions

- A.** Except for Section 7.<>, Flood Damage Prevention, the provisions of this Ordinance shall not apply to bona fide farm lands being used for farming purposes.
- B.** For the purposes of this Ordinance, a bona fide farm consists of the permanent residence of the farm owner, the parent, the grandparent, or the child of the farm owner or owner occupant, provided the owner or owner occupant receives at least 75 percent of their income from the farm.¹

I.4.3. Application to Governmental Units

Except as stated herein, the provisions of this Ordinance shall apply to:

- A.** Development by the county or its agencies or departments;
- B.** Development of buildings by the State, public colleges or universities, or other political subdivisions of the state, in accordance with the North Carolina General Statutes; and

¹ This subsection carries forward the standards in Section I.3.2 of the current UDO.

CHAPTER I: GENERAL PROVISIONS

SECTION I.5: CONFORMANCE WITH ADOPTED PLANS

Subsection I.4.4: No Development Until Compliance with this Ordinance

- C. Development owned or held in tenancy by the government of the United States, its agencies, departments or corporate services, to the full extent permitted by law.

I.4.4. No Development Until Compliance with this Ordinance²

- A. Unless exempted, no land shall be developed without compliance with this Ordinance and all other applicable county, state, and federal regulations.
- B. No person shall use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under their control, except in accordance with this Ordinance.
- C. No building, or portion thereof, shall be erected, used, moved, or altered except in conformity with the regulations specified for the zoning district in which it is located.

I.5. CONFORMANCE WITH ADOPTED PLANS

I.5.1. Conformance

- A. This Ordinance is intended to ensure that all development within the county's jurisdiction is consistent with the goals, objectives, policies, strategies, and actions of those county-adopted plans addressing the county's growth and development, including, but not limited to, the plans identified in Section I.5.2 below.
- B. To the extent this Ordinance is or becomes inconsistent with the adopted plans, it should be amended to remain consistent with the adopted plans. It is the intent of the Board of Commissioners that this Ordinance not be challenged on the basis of any alleged inconsistency with an adopted plan, except for areas of environmental concern required by Section 113A-111, North Carolina General Statutes.

I.5.2. Adopted Plans

A. 2006 Land Use Plan

The Currituck County 2006 Land Use Plan is a county-wide plan, adopted in accordance with the North Carolina Coastal Management Act, serving as the basic policy guide for this Ordinance. The plan contains policy recommendations, goals, objectives, a map depicting desired future land uses, and specific land use recommendations.

B. Small Area Plans

- (1) The Board of Commissioners has adopted plans for specific geographic areas and corridors within the county:
 - (a) The Maple-Barco Small Area Plan; and
 - (b) The U.S. Highway 158 & N.C. Highway 168 Corridor Plan.
- (2) These plans include goals, objectives, policies, and actions related to, and serve as a guide to, various aspects of development intensity and design within specific geographic areas.

² This section carries forward Section 1.8 of the current UDO.

CHAPTER I: GENERAL PROVISIONS

SECTION I.6: RELATIONSHIP WITH OTHER LAWS

Subsection I.6.1: Conflicts with Other County Codes or Laws

C. Functional Plans and Documents

The county has adopted functional plans and documents relating to future development, provision of public infrastructure and services (e.g., the Stormwater Management Manual), economic development, and tourism. The county will continue to adopt and amend these types of functional plans. These plans and documents include goals, objectives, policies, and actions related to the form and timing of the county's growth and development as well as to the location and design of public infrastructure.

I.6. RELATIONSHIP WITH OTHER LAWS

I.6.1. Conflicts with Other County Codes or Laws³

If a provision of this Ordinance is inconsistent with another provision of this Ordinance, or with a provision found in other adopted ordinances of the county, the provision providing the greatest protection to the environment or natural features shall control. In cases where this intent is not clear, then the more restrictive provision shall govern. The more restrictive provision is the one that imposes greater restrictions or burdens, or more stringent controls.

I.6.2. Conflicts with Private Agreements

The county may review private agreements, such as those related to maintenance of private common open space areas, but the county shall not be responsible for monitoring or enforcing private covenants and restrictions.

I.6.3. Conflicts with State or Federal Law

If a provision of this Ordinance is inconsistent with a provision found in the law or regulations of the state or federal government, the more restrictive provision shall control, to the extent permitted by law.

I.6.4. Existing Agreements or Vested Rights

Nothing in this Ordinance is intended to repeal, supersede, annul, impair, or interfere with any existing private agreements or vested rights previously adopted or issued in accordance with all applicable laws, provided such agreements or rights are lawfully established and remain in effect.

I.7. OFFICIAL ZONING MAP

I.7.1. Generally

A. The Official Zoning Map designates the location and boundaries of the various base zoning and overlay zoning districts established in this Ordinance. The Official Zoning Map shall be kept on file in the Planning Department and is available for public inspection during normal business hours. It may be kept in either hardcopy or digital form. It shall be the final authority as to the status of the current zoning district

³ This section carries forward Section I.4.B from the current UDO.

CHAPTER 1: GENERAL PROVISIONS

SECTION 1.7: OFFICIAL ZONING MAP

Subsection 1.7.2: Incorporated by Reference

classification of land in the county, and shall only be amended in accordance with Section 2.<>, Zoning Map Amendment, in this Ordinance.

- B.** The Planning Department shall maintain digital or printed copies of superseded versions of the Official Zoning Map for historical reference.

1.7.2. Incorporated by Reference

- A.** The Official Zoning Map and all the notations thereon is incorporated herein by reference and made part of this Ordinance.
- B.** The Flood Insurance Rate Maps (FIRM) prepared by the State and adopted on December 16, 2005 (as amended), are incorporated herein by reference and made part of this Ordinance.

1.7.3. Interpretation of Official Map Boundaries

The Planning Director shall be responsible for interpretations of the Official Zoning Map in accordance with the standards in Section 2.<>, Interpretation, and the following standards:

- A.** Boundaries shown as approximately following a utility line or a street, alley, railroad, or other public access way shall be interpreted as following the centerline of the right-of-way or easement for the utility line or access way.
- B.** Boundaries shown as approximately following a property line shall be interpreted as following the property line as it existed when the boundary was established. If a subsequent minor adjustment (such as from settlement of a boundary dispute or overlap) results in the property line moving ten feet or less, the zoning boundary shall be interpreted as moving with the property line.
- C.** Boundaries shown as approximately following a river, stream, canal, lake, or other watercourse shall be interpreted as following the centerline of the watercourse as it actually exists, and as moving with that centerline to the extent the watercourse moves as a result of natural processes (flooding, erosion, sedimentation, etc.).
- D.** Boundaries shown as approximately following shorelines shall be interpreted to follow the shoreline, even in the event of change.
- E.** Boundaries shown parallel to or as extensions of features indicated in this subsection shall be interpreted as such.
- F.** If the specific location of a depicted boundary cannot be determined from notations on the Official Zoning Map or application of the above standards, it shall be determined by using the map's scale to determine the boundary's distance from other features shown on the map.
- G.** Where the actual locations of existing physical or natural features vary from that shown on the Official Zoning Map, or in other circumstances not covered by this subsection, the Planning Director shall have the authority to interpret the district boundaries (Section 2.<>, Interpretation).
- H.** Interpretations of the floodplain boundary shall be made by the Planning Director, in accordance with the standards in Section 7.<>, Flood Damage Prevention.

CHAPTER I: GENERAL PROVISIONS

SECTION I.7: OFFICIAL ZONING MAP

Subsection I.7.4: Changes to Official Zoning Map

I.7.4. Changes to Official Zoning Map

Changes made in zoning district boundaries on the Official Zoning Map shall be considered an amendment to this Ordinance and are made in accordance with Section 2. <> Map Amendment. Changes shall be entered on the Official Zoning Map by the Planning Director promptly after the amendment is approved by the Board of Commissioners. Where the ordinance enacting a zoning district boundary change contains wording explaining or clarifying the location of the new boundary, the Planning Director may enter on the Official Zoning Map notations reflecting the ordinance wording.

I.7.5. Transition to New Zoning Districts

On *[insert the effective date of this Ordinance]*, land zoned with a zoning district classification from the previous UDO shall be translated or reclassified to one of the zoning district classifications in this Ordinance as set forth in Chapter 3: Zoning Districts. Table I.7.5, Zoning District Translation Table, summarizes the translation or reclassification of the zoning districts used in the previous UDO to the zoning districts used in this Ordinance. (For example, Table I.7.5 shows that all lands classified as Basic Residential (R) in the previous UDO (under the column titled “Prior Districts”) are classified Single-Family Residential-Mainland (SFM) in this Ordinance (under the column titled “New Districts”).)

TABLE I.7.5: ZONING DISTRICT TRANSLATION TABLE	
PRIOR DISTRICTS	NEW DISTRICTS
Special Districts	
	(RC) Resource Conservation (NEW)
(A) Agricultural	(AG) Agriculture
Residential Districts	
(R) Basic Residential	(SFM) Single-Family Residential – Mainland
(RO1) Outer Banks Standard Residential	(SFO) Single-Family Residential – Outer Banks
(RO2) Outer Banks Limited Access Residential	(SFL) Single-Family Residential – Outer Banks, Limited Access
	(SFR) Single-Family Residential – Remote (NEW) ⁴
(RA) Mixed Residential [I]	(MXR) Mixed Residential
(RR) Residential Recreational	
Business Districts	
(GB) General Business	(GB) General Business
(C) Commercial	(C) Commercial
(LBH) Limited Business Hotels Allowed	(LB) Limited Business
	(CC) Community Center (NEW)
	(VC) Village Center (NEW)
(LM) Light Manufacturing	(LI) Light Industrial
(HM) Heavy Manufacturing	(HI) Heavy Industrial
Planned Development Districts	
	(PD-R) Planned Development – Residential (NEW)
	(PD-M) Planned Development – Mixed (NEW)
	(PD-O) Planned Development – Outer Banks (NEW)

⁴ The new SFR Single-Family Residential Remote district is the new designation for Knotts Island, Gibbs Woods, and similar remote areas.

CHAPTER 1: GENERAL PROVISIONS

SECTION 1.8: TRANSITIONAL PROVISIONS

Subsection 1.8.1: Effective Date

TABLE 1.7.5: ZONING DISTRICT TRANSLATION TABLE

PRIOR DISTRICTS	NEW DISTRICTS
(PUD) Planned Unit Development Overlay [2]	(PUD) Planned Unit Development
(RET) Planned Adult Retirement Overlay [2]	
Overlay Districts	
	(DELETED)
(RMF) Multi-Family Overlay [3]	
(OB) Outer Banks Overlay	
(RAD) Residential Airpark Development	
	(AO) Airport Overlay (placeholder)
	(CVO) Corolla Village Overlay (placeholder)
<p>NOTES:</p> <p>[1] Some of these lands may be re-designated into the Agricultural or Single-Family Residential districts.</p> <p>[2] Lands subject to an approved Planned Unit Development Overlay or Planned Adult Retirement Overlay district designation are re-classified to a Planned Unit Development (PUD) base zoning district, and may continue in accordance with an approved master plan, but substantial modifications shall require a zoning map amendment to establish a planned development district in accordance with the UDO.</p> <p>[3] Lands subject to this overlay district designation will be translated to the new (MXR) Mixed Residential district.</p>	

I.8. TRANSITIONAL PROVISIONS

I.8.1. Effective Date

This Ordinance shall become effective on *[insert effective date of this Ordinance]*, and repeals and replaces the Currituck County Unified Development Ordinance, as originally adopted on September 4, 2007, and subsequently amended.

I.8.2. Violations Continue

- A.** Any violation of the previous UDO shall continue to be a violation under this Ordinance unless the development complies with the express terms of this Ordinance.
- B.** Violations of this UDO shall be subject to the penalties set forth in Chapter 9: Enforcement, unless the development complies with the express terms of this Ordinance or the other ordinances, laws, or statutes.

I.8.3. Complete Applications⁵

- A.** Any development application submitted and accepted as complete before *[insert the effective date of this Ordinance]*, but still pending final action as of that date, shall be reviewed and decided in accordance with the regulations in effect when the application was accepted. To the extent such an application is approved and proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of Chapter 8: Nonconformities.

⁵ Sections 1.5.B & C in the current UDO set out transitional provisions for subdivisions and planned developments with sketch plan approval prior to 4/2/89 (21 years ago), but not yet completed. These provisions are not carried forward in the new UDO.

CHAPTER I: GENERAL PROVISIONS

SECTION I.8: TRANSITIONAL PROVISIONS

Subsection I.8.4: Approved Applications

- B.** Completed applications shall be processed in good faith and shall comply with any time frames for review, approval, and completion as established in the regulations in effect at the time of application acceptance. If the application fails to comply with the required time frames, it shall expire and future development shall be subject to the requirements of this Ordinance.
- C.** An applicant with a pending application accepted before *[insert the effective date of this Ordinance]* may opt to have the proposed development reviewed and decided under the standards of this Ordinance by withdrawing the pending application and submitting a new application in accordance with the standards of this Ordinance.

I.8.4. Approved Applications

Any development approvals granted before *[insert the effective date of this Ordinance]* shall remain valid until their expiration date. Developments with valid approvals or permits may be carried out in accordance with the terms and conditions of their approval and the development standards in effect at the time of approval, provided the permit or approval is valid and has not expired. If the prior approval expires or is revoked (e.g., for failure to comply with the terms and conditions of approval), any subsequent development of the site shall be applied for in accordance with the procedures and standards of this Ordinance. To the extent a prior-approved application proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of Chapter 8: Nonconformities.

I.8.5. Approved Conditional Use Zoning District

- A.** Lands subject to a conditional use zoning classification before *[insert the effective date of this Ordinance]* shall retain the conditional use zoning district classification and shall be subject to the existing conditions of approval.
- B.** To the extent a landowner proposes development that is different than what is allowed in the existing conditional use zoning district, the land requires approval of a zoning map amendment (see Section 2.<>, Zoning Map Amendment) in accordance with this Ordinance.

I.8.6. Approved Planned Unit Development⁶

[placeholder]

I.8.7. Nonconformities

If any use, structure, lot, or sign legally existed on *[insert the effective date of this Ordinance]*, but does not fully comply with the standards of this Ordinance, the use, structure, lot, sign or site feature is considered nonconforming under this Ordinance and shall comply with the requirements in Chapter 8: Nonconformities.

⁶ One issue for further discussion is treatment of Planned Unit Developments approved prior to adoption of the new UDO that are not fully developed.

CHAPTER I: GENERAL PROVISIONS

SECTION I.9: SEVERABILITY

Subsection I.8.7: Nonconformities

I.9. SEVERABILITY

It is the legislative intent of the Board of Commissioners in adopting this Ordinance that all provisions shall regulate development in accordance with the existing and future needs of the county as established in this Ordinance, and promote the public health, safety, and general welfare of the land owners and residents of the county. If any section, subsection, sentence, boundary, or clause of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of the Ordinance. The Board of Commissioners hereby declares that it would have passed this Ordinance and any section, subsection, sentence, boundary, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, boundaries, clauses, or phrases are declared invalid.

2

ADMINISTRATION

COMMENTARY:

Chapter 2: Administration, consolidates and streamlines all matters related to the procedural review of development. There are four major sections in Chapter 2: Administration.

- Section 2.1, Summary Table of Review Responsibilities, sets out all the specific development application review procedures in the UDO and the type of review associated with the application.
- Section 2.2, Advisory and Decision-making Bodies, identifies and clarifies the roles of the different commissions, boards, and professional staff responsible for advisory and decision-making on development applications. Where relevant, the section also outlines the rules governing the review body.
- Section 2.3, Standard Procedures, establishes a common set of review procedures that apply to all applications for development approval. It provides the framework under which the county's basic development review procedures for development applications are consolidated and made uniform to the greatest degree possible. The section addresses:
 - Pre-application conferences with staff as a part of more significant development application reviews;
 - Community meetings requirements and procedures;
 - Application submittal and acceptance;
 - Staff review responsibilities;
 - Public hearing scheduling, notification, and procedural requirements for public hearings;
 - Review and decision-making procedures; and
 - Post-decision actions, limitations, and effects.
- Section 2.4, Specific Review Procedures, supplements the standard procedures with specific rules focusing on those procedures and review standards unique to each of 18 specific types of development permits or approvals. A number of these development approvals are new, or formalize what used to be an informal process. They include:
 - Planned development;
 - Sign permits;
 - Temporary use permits;
 - Clear-cutting permits;
 - Administrative adjustments; and
 - Development agreements.
- Existing review procedures are revised to reflect a common organizational scheme and format, and to clarify and streamline review procedures.

Chapter 2. 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 (NEW)	<D>	R		R	
DISCRETIONARY REVIEW					
Use Permit [1]	<D>	R		R	
SITE DEVELOPMENT					
Site Plan					
Major Site Plan				D	
Minor Site Plan					D
Subdivision					
Major Subdivision					
Preliminary Plat	<D>	R		R	
Construction Drawings				D	
Final Plat				D	
Minor Subdivision					D
PERMITS					
Zoning Compliance Permit [2]					D
Sign Permit (NEW)					D
Temporary Use Permit (NEW)				R	D
Floodplain Development Permit					D
Clear-Cutting Permit (NEW)					D

CHAPTER 2: ADMINISTRATION

SECTION 2.2: ADVISORY AND DECISION-MAKING BODIES

Subsection 2.2.1: Generally

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 (NEW) [3]					D
Interpretation					D
Appeal [4]			<D>		
DEVELOPMENT AGREEMENT					
Development Agreement (NEW)	<D>	<R>		R	
NOTES:					
[1] This is the renamed special use permit.					
[2] This is the renamed zoning permit procedure.					
[3] This procedure is a broadened version of the administrative variance procedure.					
[4] 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 or departments who may review and comment on specific application types during the review process as specified in the Development Review Process Manual.

2.2.2. Board of Commissioners⁷

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:

⁷ This section replaces Section 14.7 from the current UDO.

CHAPTER 2: ADMINISTRATION

SECTION 2.2: ADVISORY AND DECISION-MAKING BODIES

Subsection 2.2.3: Planning Board

(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)** 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 Engineering Director, as the Board of Commissioners may deem desirable and necessary to implement the provisions of this Ordinance.

2.2.3. Planning Board⁸

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;
- (e)** Use permits;
- (f)** Preliminary plats (for major subdivisions); and
- (g)** 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.

⁸ This section replaces Sections 14.1 through 14.6 of the current UDO.

CHAPTER 2: ADMINISTRATION

SECTION 2.2: ADVISORY AND DECISION-MAKING BODIES

Subsection 2.2.3: Planning Board

B. Membership, Appointment, and Terms of Office

(1) General

- (a)** The Planning Board shall consist of a total of nine regular members appointed by the Board of Commissioners. Each County Commissioner may appoint one member from any electoral district in the county. The remaining two members shall be designated as at-large appointees by the entire Board of Commissioners. One shall reside on the mainland. The other shall reside on the Outer Banks.
- (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 three-year, staggered terms, and shall 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) Schedule⁹

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.<>, Public Notification.

(4) Open to the Public

All meetings shall be open to the public.

⁹ This is a different approach than the schedule in Section 14.2.A of the current UDO.

CHAPTER 2: ADMINISTRATION

SECTION 2.2: ADVISORY AND DECISION-MAKING BODIES

Subsection 2.2.4: Board of Adjustment

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 Procedure¹⁰

The Planning Board shall adopt rules of procedure governing its procedures and operations. Copies shall be made available for public inspection in the Planning 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 Adjustment¹¹

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.

(2) Other Powers and Duties

¹⁰ This is a new requirement. Section 15.5.B indicates that the Board may adopt rules of procedure.

¹¹ This section carries forward Sections 13.1 through 13.6 in the current UDO. The balance of the sections in Chapter 13 of the current UDO are relocated to the variance and appeal procedure provisions in this Ordinance. Interpretations of the Official Zoning Map are made by the Planning Director, with appeals of these decisions to the BOA. Special use permits are renamed 'use permits.' They are decided by the Board of Commissioners.

CHAPTER 2: ADMINISTRATION

SECTION 2.2: ADVISORY AND DECISION-MAKING BODIES

Subsection 2.2.4: Board of Adjustment

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)** 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.
- (c)** 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.
- (d)** Board of Adjustment members shall be appointed for three-year, staggered terms. Members shall continue to serve until their successors are appointed.
- (e)** 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) Schedule¹²

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.

¹² This is a different approach than the schedule in Section 13.2.A of the current UDO.

CHAPTER 2: ADMINISTRATION

SECTION 2.2: ADVISORY AND DECISION-MAKING BODIES

Subsection 2.2.5: Technical Review Committee

- (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 2.2.5, 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 total number of members of the Board of Adjustment shall be necessary to grant any variance or approve any appeal reversing or modifying a decision.
 - (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 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)** Construction drawings (for major subdivisions); and
- (c)** 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)** 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 a Development Review Process 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 one representative from each of the following county departments or agencies involved with development review, as designated by the head of the department or agency:

- (a)** Planning Department;
- (b)** Engineering Department;
- (c)** Public Utilities;
- (d)** Emergency Management;
- (e)** Soil and Water Conservation;
- (f)** Inspections Department; 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.

CHAPTER 2: ADMINISTRATION

SECTION 2.2: ADVISORY AND DECISION-MAKING BODIES

Subsection 2.2.6: Planning Director

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) 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 a Development Review Process Manual;
- (c) Review applications and submit staff reports to advisory and decision-making bodies;
- (d) Maintain the Official Zoning Map and related materials;
- (e) Provide expertise and technical assistance to the county's other review and decision-making bodies, upon request;
- (f) Maintain a record of all permits and approvals on file, and make copies available upon request;
- (g) Enforce this Ordinance in accordance with Chapter 9: Enforcement;
- (h) 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 Procedures. The procedural flow charts in Section 2.4, Specific Procedures, generally depict the procedural steps that apply to the review of the particular type of development application.
- B.** The county has adopted a 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 Conference¹³

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:

- (a)** Text amendments;
- (b)** Zoning map amendments;
- (c)** Conditional rezonings;
- (d)** Planned developments;
- (e)** Use permits;
- (f)** Major site plans; and
- (g)** Major subdivision preliminary plats.

(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, the applicant shall submit a conceptual plan or conceptual drawings that show the

¹³ This section consolidates the information on pre-application conferences from the various review procedures throughout the current UDO. Each of these review procedures already requires a pre-application conference.

CHAPTER 2: ADMINISTRATION

SECTION 2.3: STANDARD PROCEDURES

Subsection 2.3.3: Community Meeting

location, general layout, and main elements of the development to be proposed as part of the application.

- (2) Conceptual plans or 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 Meeting¹⁴

A. Purpose

The purpose of the pre-application 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.

¹⁴ This section builds on the neighborhood meeting requirements in the current UDO. The current standards require a community meeting for conditional rezonings, but provides little in the way of procedure or required elements. These new standards broaden the range of application types subject to community meetings, clarifies that optional meetings may be held, and sets out a procedure.

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;¹⁵ and
- (e)** 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.

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.<>, Mailed Notice Requirements.

(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 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

The notice shall state the time and place of the meeting and general nature of the development proposal.

(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.

¹⁵ The summary use table in Chapter 4 will reduce the number of uses requiring use permits, but use permits will continue to be required for major subdivisions and large commercial uses along the Carratoke Highway outside a community center.

(4) Staff Attendance

County staff may 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.

2.3.4. Application Submittal and Acceptance¹⁶

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 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 Development Review Process 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

¹⁶ This is a new section that consolidates the various provisions related to application submittal. Most of this information is not found in the current UDO, and should help applicants better understand the application submittal process.

CHAPTER 2: ADMINISTRATION

SECTION 2.3: STANDARD PROCEDURES

Subsection 2.3.4: Application Submittal and Acceptance

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 Development Review Process 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 Development Review Process 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 Completeness¹⁷

(1) Completeness Review

On receiving an application, the Planning Director shall, within a reasonable period of time, 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 Development Review Process 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.
- (b)** If the applicant fails to resubmit an application within 45 calendar days after being first notified of submittal deficiencies, the application shall be considered withdrawn.
- (c)** The Planning Director shall not process an application for further review until it is determined to be complete.

(3) Application Complete

¹⁷ This is a new provision that establishes a set of criteria to ensure that new application submittals contain all the information necessary to review the application in accordance with the standards in the UDO.

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SECTION 2.3: STANDARD PROCEDURES

Subsection 2.3.4: Application Submittal and Acceptance

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. 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, as long as they constitute only minor additions, deletions, or corrections and do not include significant substantive changes to the development proposed in the application. For the purposes of this sub-section, significant substantive changes include, but not are limited to:¹⁸
 - (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 in lot lines by two feet or more;
 - (g)** Relocation of streets or driveways by two feet or more;
 - (h)** Decreases in open space;
 - (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.
- (2)** Any other 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 (see Section 2.<>, Limitation on Subsequent Similar Applications). Application fees shall not be refunded for withdrawn applications.

¹⁸ This list builds on the permit amendments described in Section 11-9 of the current UDO.

2.3.5. Staff Review and Action¹⁹

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.
- (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 to be considered by an advisory or decision-making body or both. 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:

- (1) Schedule and ensure notice of any required public hearing on the application (if appropriate) in accordance with Section 2.<>, Public Hearing Scheduling and Notice;
- (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

¹⁹ The Technical Review Committee is considered to be county staff.

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SECTION 2.3: STANDARD PROCEDURES

Subsection 2.3.6: Public Hearing Scheduling and Public Notification

- (4) Make the application, related materials, and the staff report available for examination by the public in the Planning 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 Notification²⁰

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.

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
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²⁰ This is a new section that consolidates all the information related to public notification of public hearings. As written, the proposed UDO anticipates that all notice will be prepared by the county.

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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	
Preliminary Plat for Major Subdivision [1]	Q	
Use Permit [1]	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.

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

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TABLE 2.3.6.B: PUBLIC NOTIFICATION TIMING REQUIREMENTS

APPLICATION TYPE [1]	TYPES OF REQUIRED PUBLIC NOTICE		
	PUBLISHED NOTICE	MAILED NOTICE	POSTED NOTICE
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	
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 map (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 2.4. Mailed Notice Requirements.

[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.

(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:

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- (i) All owners of the land subject to the application;
 - (ii) The applicant, if different from the land owner;
 - (iii) All owners 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; and²¹
 - (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.<>, 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 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 with subsection 2.<>, Notice Content, and the North Carolina General Statutes.

(5) Notice Content

All notices for public hearings, unless expressly noted otherwise, whether done by mail (mailed notice), publication (publishing in a newspaper of general circulation in the county), or posting shall:

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

²¹ The NCGS only requires mailed notice to be sent to landowner and landowners of abutting lots or tracts.

- (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 Application²²

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 for good cause.

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.

²² This section addresses how deferrals of applications scheduled for public hearings are addressed, based upon the timing of the deferral request and the provision of public notification.

2.3.8. Public Hearing Procedures²³

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

²³ This is a new section that establishes a single consolidated set of standards for the conduct of public hearings, whether standard or quasi-judicial. The section describes the order of proceedings, how testimony and comment is received, the distinctions between standard and quasi-judicial hearings, and what happens after the public hearing is closed.

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 a 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 Distinguished²⁴

Quasi-judicial public hearings shall be subject to the standards in Section 2.<>, Conduct of Public Hearing, and the following.

(1) Opportunity to Present Testimony and Evidence

Any affected party²⁵ 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.<>, 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

²⁴ The provisions regarding record maintenance, swearing in, ex parte communications, cross examination, and exclusion of evidence all reflect requirements established by a series of North Carolina court decisions.

²⁵ “Affected party” is defined in the Definitions chapter, but is generally considered to include the owners of land adjoining the land subject to an application and any other person who could suffer an adverse effect to a property interest from the proposed development.

or decision of approval, approval with conditions, or disapproval (whichever is appropriate).

(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 Recommendation²⁶

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.<>, 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 Decision²⁷

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. Review and Decision

(1) General

²⁶ This section includes details related to how the Planning Board are involved with review and recommendation of specific development applications. The information is listed here and cross-referenced elsewhere in the Ordinance. The TRC is considered county staff.

²⁷ This section includes details related to how the Board of Commissioners, and Board of Adjustment are involved with review and recommendation of specific development applications. The information is listed here and cross-referenced elsewhere in the Ordinance.

The decision-making body shall hold any required public hearing(s) in accordance with Section 2.<>, 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.

(2) 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.

(3) 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.

(4) 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.

(5) 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 Action²⁸

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 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

²⁸ This is a new section that provides additional details about the actions undertaken by county staff or advisory and decision-making bodies following the close of the public hearing.

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Subsection 2.3.14: Amendment of Development Approval

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 Approval²⁹

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.
- (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

²⁹ This is a new section that sets out how development approvals may expire. In cases where a specific development approval relies upon differing expiration provisions, the expiration provisions are listed with the standards related to the specific development review procedure.

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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, Summary Table of Development Review Responsibilities. 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.

2.4.2. Text Amendment³⁰**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

³⁰ This section carries forward the standards in Section 12.4 of the current UDO with no substantive changes.

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SECTION 2.4: SPECIFIC REVIEW PROCEDURES

Subsection 2.4.2: Text Amendment

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 an application in accordance with Section 2.4.2.C, Text Amendment Review Standards.

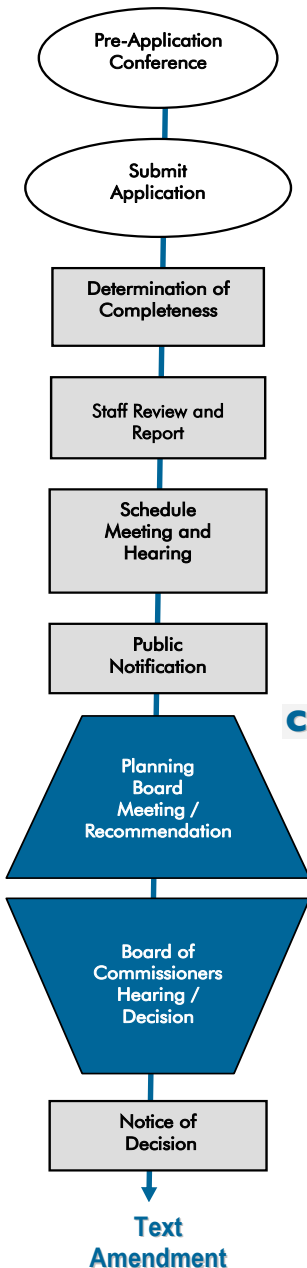
(8) Decision-Making Body Review and Decision

(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:

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

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- (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

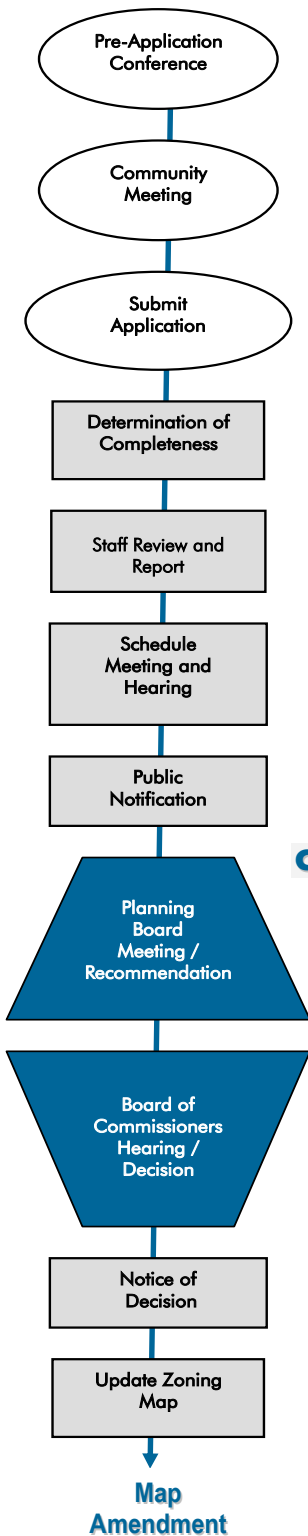
Applicable (see Section 2.3.8).

(7) Advisory Body Review and Recommendation

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Subsection 2.4.3: Zoning Map Amendment



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 and furthers the goals, objectives, and policies of the Land Use Plan 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;
- (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, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment;

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Subsection 2.4.4: Conditional Rezoning

- (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 Rezoning³¹

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. Applied to Entire Site

Applications for conditional rezoning submitted after [*insert effective date of this Ordinance*] 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 condition zoning classification.

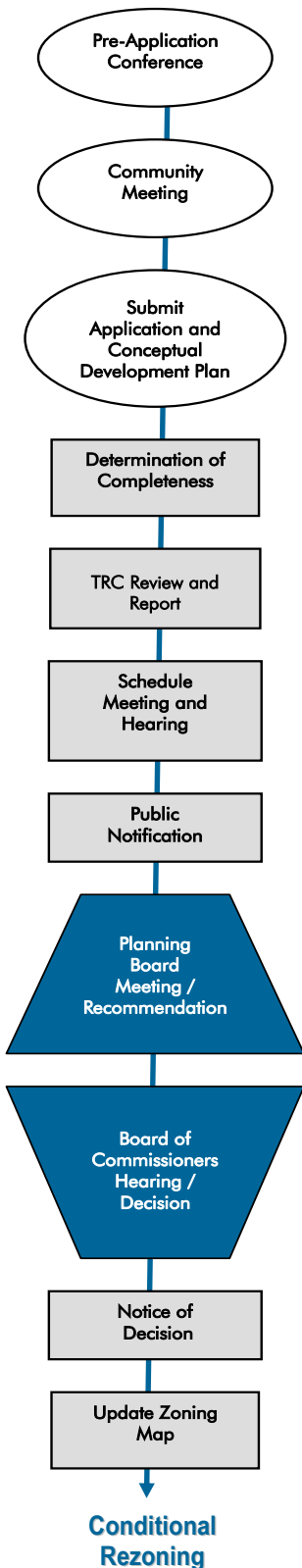
³¹ This section is proposed to build on and replace the standards for conditional zoning in Section 2.3 of the current UDO. The one-step legislative process is carried forward in this new procedure, but this procedure adds more specific procedures and revision of current language to clarify that conditions of approval are to be suggested by the applicant.

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SECTION 2.4: SPECIFIC REVIEW PROCEDURES

Subsection 2.4.4: Conditional Rezoning

C. 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.

(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 2.4.4.D, Conditional Rezoning Review Standards.

(b) During its review of the application, the Planning Board may suggest revisions to the proposed conditions, 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:

- (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.

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Subsection 2.4.4: Conditional Rezoning

- (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. 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 Standards.

E. 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.

F. 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 suffix “CD” along with the ordinance number approving the conditional rezoning.

G. 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.

H. Minor Deviations

(I) 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. 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.

I. Amendment

Applicable (see Section 2.3.14).

J. Expiration

Not applicable.

2.4.5. Planned Development³²

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 any 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).

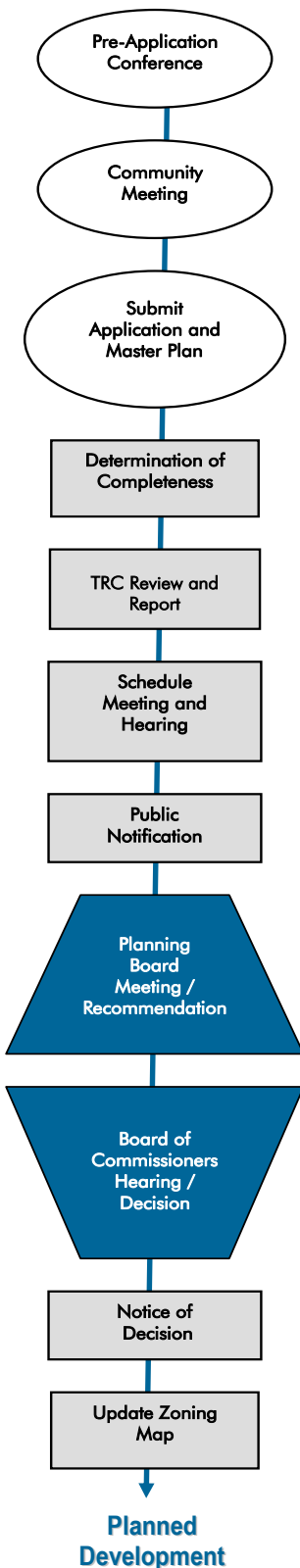
(3) Application Submittal and Acceptance

³² This is a new procedure designed to replace the Planned Unit Development Overlay district provisions in Section 4.3 of the current UDO, as described in the Code Assessment. It would apply to the review of all planned development districts, be approved as an amendment to the Official Zoning Map (instead of an overlay), and requires approval of a conceptual master plan and statement of terms and conditions as part of the PD approval. The PD standards, which will be established in Chapter 3: Zoning Districts, will allow greater flexibility in lot configuration with the general expectation that development will exceed the minimum development quality.

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SECTION 2.4: SPECIFIC REVIEW PROCEDURES

Subsection 2.4.5: Planned Development



- (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.
- (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 2.4.5.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.

(b) As part of the decision, the Board of Commissioners shall adopt a written statement of consistency and reasonableness that:

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Subsection 2.4.5: Planned Development

- (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.<>, Standards for PD 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.H.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. 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 Permit³³

A. Purpose

A use designated as a special use 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 special uses to ensure they are appropriate for a particular zoning district.

³³ This new procedure discussed in the Code Assessment called “use permit,” incorporates the special use permit procedure in the current UDO (Section 11.7), and also replaces the conditional use permit procedure (Section 11.8 in the current UDO). As is discussed in the Code Assessment, in general, the range of uses that will require a use permit in the new UDO will be reduced. The use permit will continue to be the mechanism by which the county applies its adequate public facility requirements for schools to new subdivisions.

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SECTION 2.4: SPECIFIC REVIEW PROCEDURES

Subsection 2.4.6: Use Permit

B. Applicability

- (1) Prior to establishment of a special use identified in Table 4.<>, Use Table, the special use shall receive approval of a use permit in accordance with this section.
- (2) At the time of approval of a major subdivision preliminary plat, the subdivision shall receive approval of a use permit in accordance with this section.

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).

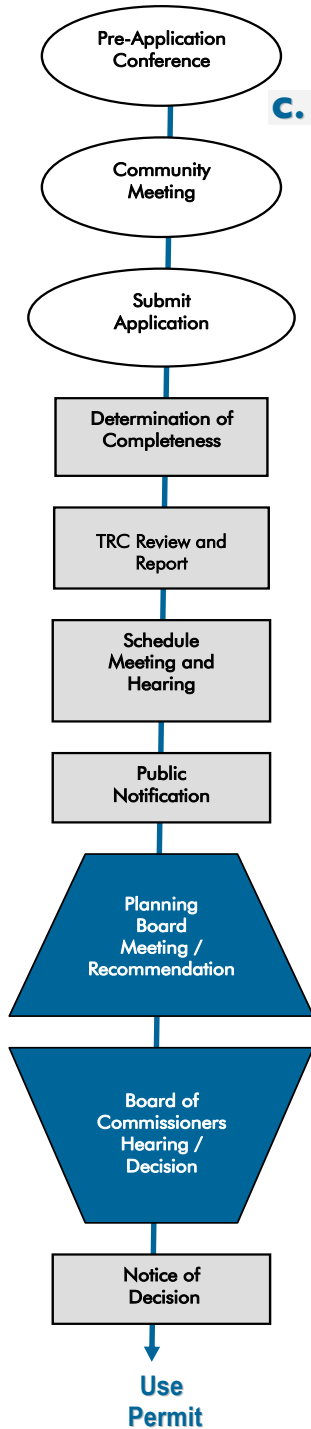
(7) Advisory Body Review and Recommendation

- (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 2.4.6.D, Use Permit Review Standards.
- (b) During its review of the application, the Planning Board may propose conditions of approval in accordance with Section 2.3.11, Conditions of Approval.

(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;
- (iii) Denial of the use permit; or
- (iv) Remand of the use permit application back to the Planning Board for further consideration.



CHAPTER 2: ADMINISTRATION

SECTION 2.4: SPECIFIC REVIEW PROCEDURES

Subsection 2.4.7: Site Plan

- (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 special 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 special use; or
- (3) Approval of construction drawings, if the special use requires approval of a preliminary plat.

2.4.7. Site Plan³⁴

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

³⁴ This section includes a new site plan procedure that establishes major and minor site plans that follow different review procedures, but rely on similar review standards. This section will likely evolve as the UDO drafting process continues..

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 or mobile homes;
- (b)** Accessory uses or structures serving an existing principal use;
- (c)** Expansion of an existing building’s gross floor area by less than 500 square feet; or
- (d)** Expansion of existing off-street parking, impervious surface, disturbed land area, or 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).

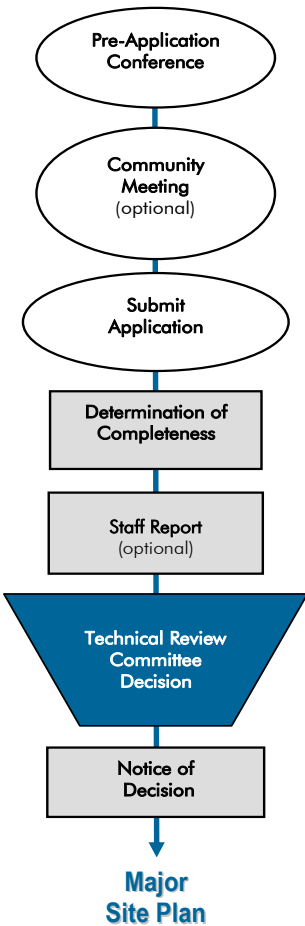
(3) Application Submittal and Acceptance

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

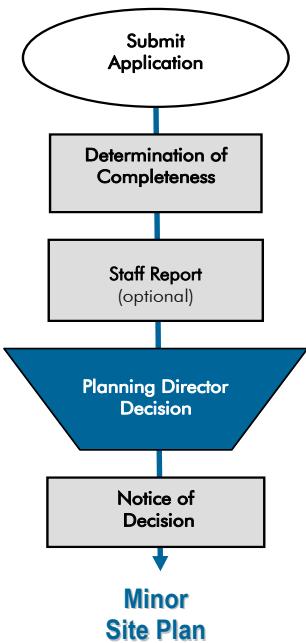
An application for a site plan shall be approved on a finding the applicant has demonstrated the proposed development:

(1) Is consistent with the Land Use Plan or other officially adopted plan;

(2) Complies with the applicable district, use-specific, development, environmental, and subdivision design standards of this Ordinance;

(3) Complies with the Stormwater Design 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.



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SECTION 2.4: SPECIFIC REVIEW PROCEDURES

Subsection 2.4.8: Subdivision

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. Subdivision³⁵

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.

³⁵ This section carries forward and modernizes the procedural aspects of the subdivision review process. The Planned Unit Development Subdivision standards in Section 10.3.10 and the Residential Airpark Development subdivision provisions in Section 10.3.11 of the current UDO are not carried forward (as was mentioned in the Code Assessment). The procedure for review and approval of a conservation subdivision is relocated to Chapter 6: Subdivision and Infrastructure Standards. The balance of the subdivision provisions (open space, subdivision configuration, etc.) are relocated to the subdivision provisions in Chapter 6.

(2) Exemptions

No-review subdivisions are exempt from subdivision review, but shall be required to comply with the relevant standards in Chapter 6: Infrastructure and Subdivisions, 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 Subdivision³⁶

A minor subdivision consists of the division of land into five or fewer lots when:

- (a)** It does not constitute a no-review subdivision;
- (b)** There is no public right-of-way dedication;
- (c)** No private street or private access serving more than two lots is created; or

³⁶ The county’s current treatment of family subdivisions and minor subdivisions with private streets has resulted in poorly functioning subdivisions that often require capital outlay for infrastructure retrofitting. As a result, two changes are proposed to the minor subdivision provisions. The first is that family subdivisions be limited to conveyance of lots to family members only. The second change is that any subdivision proposing a private street (known as “private access subdivisions”) be treated as a major subdivision.

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- (d) Lots are conveyed solely to family members as a family 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.4<>, Final Plat.

- (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.³⁷

(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.

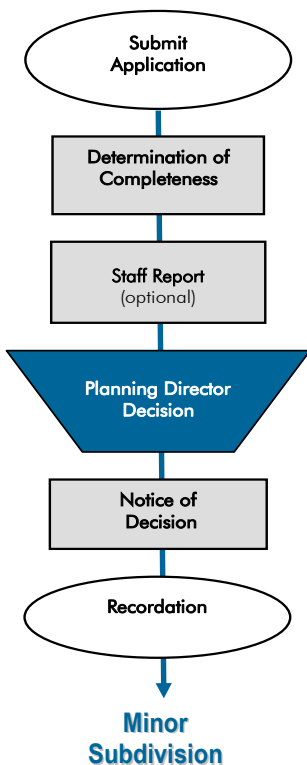
(h) Decision-Making Body Review and Decision

Not applicable.

(2) Minor Subdivision Review Standards

A minor subdivision shall be approved on a finding that:

- (a) 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.4; and all other applicable standards in this Ordinance;



³⁷ Family subdivisions will be defined in Chapter 10: Definitions and Measurement, to mean a tract of land transferred to a family member within two degrees of kinship (e.g., child, grandchild).

- (b)** It will not result in six or more lots created from the parent parcel or tract, as it existed on April 2, 1989;
 - (c)** If it is a family subdivision, it creates no more than one lot a year or no more than six lots total (including the original parcel or tract);and
 - (d)** It does not create a public street right-of-way, private street right-of-way, or private access serving more than two lots.
- (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**(1) Overview****(a) In General**

- (i)** Development of a major subdivision requires approval of a preliminary plat and use permit, 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.

(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)** 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

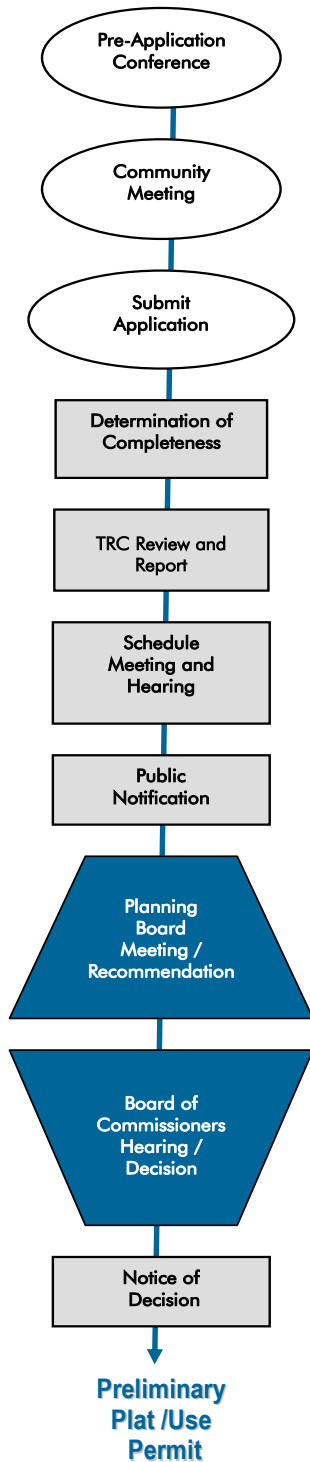
Construction drawings are the detailed, engineered drawings showing individual lots and all the information necessary to install required public improvements. The construction drawings are combined with the preliminary plat to prepare the final plat.

(d) Final Plat

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- (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) Preliminary Plat / Use Permit

(a) Review Procedure

- (i) **Pre-Application Conference**
Applicable (see Section 2.3.2).
- (ii) **Community Meeting**
Applicable (see Section 2.3.3).
- (iii) **Application Submittal and Acceptance**
 - (A) Applicable (see Section 2.3.4). An application for a preliminary plat shall also include an application for a use permit (see Section 2.4.6).
 - (B) Construction drawings may be submitted concurrently with a preliminary plat application, at the applicant's option.
- (iv) **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.2, Preliminary Plat Review Standards, and Section 2.4.6.D, Use Permit Review Standards.
- (v) **Public Hearing Scheduling and Public Notification**
Applicable (see Section 2.3.6).
- (vi) **Public Hearing Procedures**

Applicable (see Section 2.3.8).

(vii) 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 the standards in Section 2.4.8.E.2, Preliminary Plat Review Standards, and Section 2.4.6.D, Use Permit Review Standards.

(viii) Decision-Making Body Review and Decision

(A) Applicable (see Section 2.3.10). The Board of Commissioners, following a quasi-judicial public hearing (Section 2.3.8.C), shall make a decision on the application for in accordance with the standards in Section 2.3.10, Decision-Making Body Review and Decision, Section 2.4.8.E.2, Preliminary Plat Review Standards and Section 2.4.6.D, Use Permit Review Standards.

(B) The Board of Commissioners may place limitations on the timing and extent of new development in accordance with Section 6.<>, Adequate Public Facility Standards.

(b) Preliminary Plat Review Standards

An application for a 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;
- (iii)** The Stormwater Design 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.

(c) Effect of Development Approval

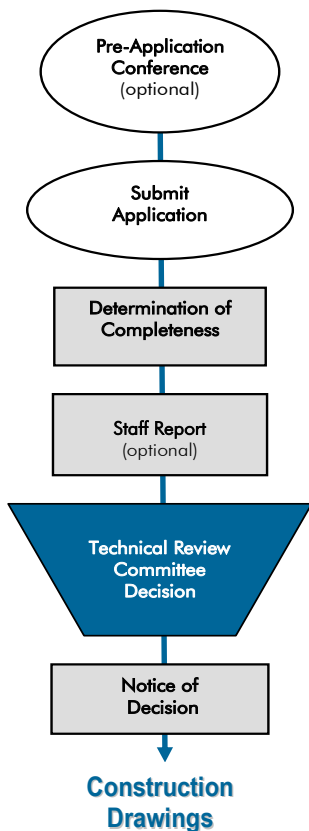
Approval of a preliminary plat authorizes:

- (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.

(d) Amendment of Development Approval

Applicable (see Section 2.3.14).

(e) Expiration of Development Approval



- (i) Approval of a preliminary plat shall automatically expire if an application for approval of a final plat is not submitted within two years after the date of approval of the 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.

(3) Construction Drawings

(a) Review Procedure

- (i) **Pre-Application Conference**
Optional (see Section 2.3.2).
- (ii) **Community Meeting**
Not applicable.
- (iii) **Application Submittal and Acceptance**
Applicable (see Section 2.3.4).
- (iv) **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.3.b, Construction Drawing Review Standards.
- (v) **Public Hearing Scheduling and Public Notification**
Not applicable.
- (vi) **Public Hearing Procedures**
Not applicable.
- (vii) **Advisory Body Review and Recommendation**
Not applicable.
- (viii) **Decision-Making Body Review and Decision**
Not applicable.

(b) 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 Stormwater Design Manual; and

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(v) All other applicable requirements in the County Code of Ordinances.

(c) **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.

(d) **Amendment of Development Approval**

Applicable (see Section 2.3.14)

(e) **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.

(4) **Final Plat**

(a) **Review Procedure**

(i) **Pre-Application Conference**

Optional (see Section 2.3.2).

(ii) **Community Meeting**

Not applicable.

(iii) **Application Submittal and Acceptance**

Applicable (see Section 2.3.4).

(iv) **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.4.b, Final Plat Review Standards.

(v) **Public Hearing Scheduling and Public Notification**

Not applicable.

(vi) **Public Hearing Procedures**

Not applicable.

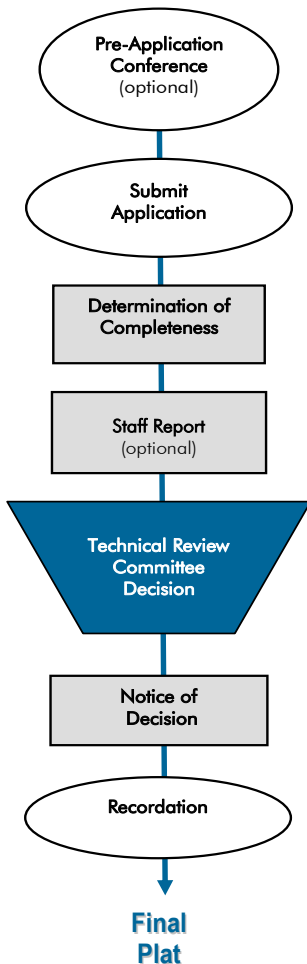
(vii) **Advisory Body Review and Recommendation**

Not applicable.

(viii) **Decision-Making Body Review and Decision**

Not applicable.

(b) **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 Standard, 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.<>).

(c) Acceptance of Public Infrastructure

- (i) The Planning Director shall secure from the developer a performance guarantee stating the developer shall agree to maintain all required public and private improvements until they are accepted for ownership and maintenance responsibility by a property owners or homeowners association that is recognized and approved by the Board of Commissioners and established in accordance with the procedures established in Section 6.<>. Homeowner Associations.³⁸.
- (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.

(d) Effect of Development Approval

Approval of a final plat allows the sale or conveyance of lots within the subdivision.

(e) 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;

³⁸ This section will establish several new requirements for homeowner associations and how maintenance responsibilities are turned over to the association from the developer. The new standards will require the developer to maintain responsibility for public and private infrastructure maintenance until 51 percent or more of the lots are sold. The standards will also require the developer to produce an affidavit or resolution of acceptance of maintenance responsibilities signed by the president of the homeowners association prior to transfer. Finally, the standards will require inspection and approval by county staff that all required public and private infrastructure meet the minimum county standards at the time of transfer to the homeowners association.

CHAPTER 2: ADMINISTRATION

SECTION 2.4: SPECIFIC REVIEW PROCEDURES

Subsection 2.4.9: Zoning Compliance Permit

- (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.

(f) 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 Permit³⁹

A. Purpose

The purpose of a zoning compliance permit is to ensure no development occurs under this Ordinance 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

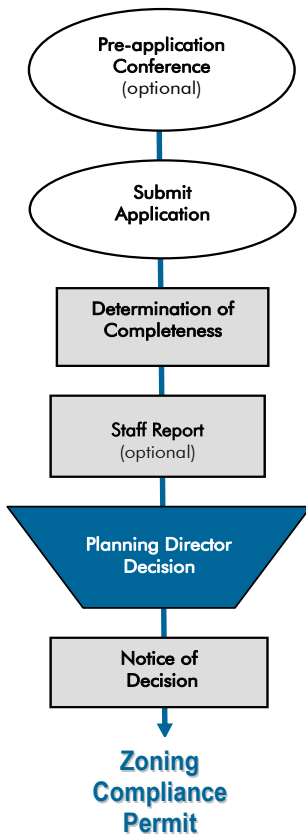
Not applicable.

(6) Public Hearing Procedures

Not applicable.

(7) Advisory Body Review and Recommendation

Not applicable.



³⁹ The zoning compliance permit is basically the zoning permit in Section 11.4 of the current UDO. The zoning compliance permit procedure carries forward the zoning permit procedure, except the permit decision is made by the Planning Director instead of the TRC.

(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 Permit⁴⁰

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.<>, Signs.

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

Signs identified in Section 5.<>, Signs Excluded from Regulation, are exempt from obtaining a sign permit in accordance with this section, but are required to comply with all other standards in Section 5.<>, Signs.

C. Sign Permit Procedure

(1) Pre-Application Conference

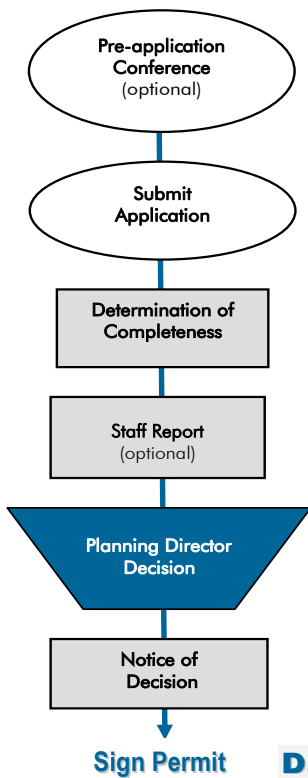
Optional (see Section 2.3.2).

⁴⁰ This is a new permit described in the Code Assessment. Chapter 7 in the current UDO includes the standards for signs, but does not include a sign permit process. The current UDO uses the zoning permit process for the review and approval of sign permits.

CHAPTER 2: ADMINISTRATION

SECTION 2.4: SPECIFIC REVIEW PROCEDURES

Subsection 2.4.11: Temporary Use Permit



(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.<>, Signs, all relevant standards of this Ordinance, 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 2.3.13).

G. Expiration of Development Approval

Applicable (see Section 2.3.15).

2.4.11. Temporary Use Permit⁴¹

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.<>, Temporary Uses and Structures.

⁴¹ The temporary use permit is a new permit described in the Code Assessment. It will also be used to review special events like “mass gatherings.”

CHAPTER 2: ADMINISTRATION

SECTION 2.4: SPECIFIC REVIEW PROCEDURES

Subsection 2.4.11: Temporary Use Permit

B. Applicability

The provisions of this section shall apply to all proposed temporary uses, temporary structures, and special events set forth in Section 4.<>, Temporary Uses and Structures.

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.<>, Temporary Uses and Structures.

E. Effect of Development Approval

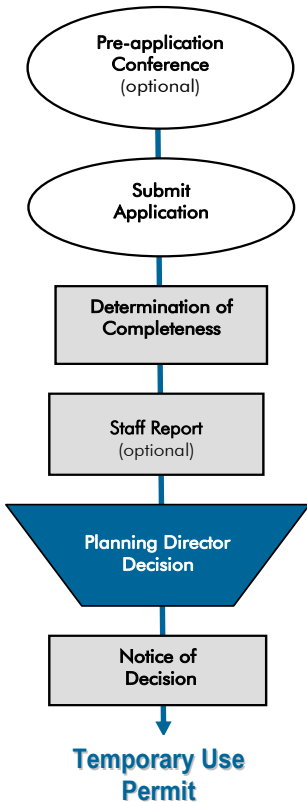
Applicable (see Section 2.3.13).

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, unless an extension of time period is authorized in accordance with Section 4.<>, Extension of Expiration Time Period.



2.4.12. Floodplain Development Permit⁴²

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 associated elevation certificates in accordance with this section and Section 7. <>, 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 2.4.13.D, Floodplain Development 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.

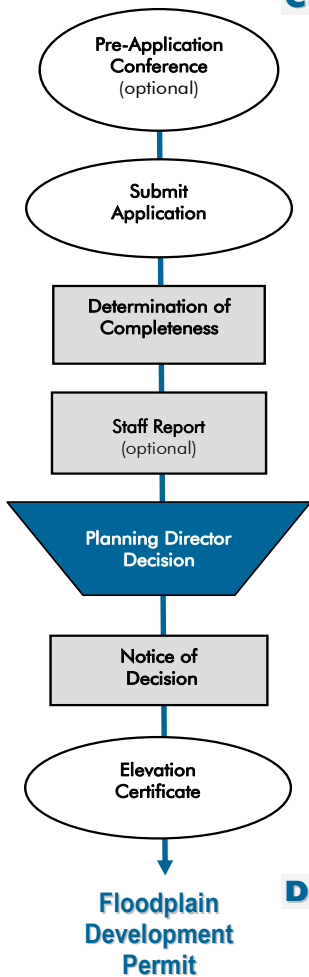
(8) Decision-Making Body Review and Decision

Not applicable.

D. 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 development proposed within the special flood hazard area complies with the standards in Section 7.<>, Flood Damage Prevention, and all other applicable standards in this Ordinance and the County Code of Ordinances;



⁴² This section incorporates a modified version of the floodplain development permit procedure described in DENR’s model floodplain ordinance.

CHAPTER 2: ADMINISTRATION

SECTION 2.4: SPECIFIC REVIEW PROCEDURES

Subsection 2.4.13: Clear-Cutting Permit

- (2) No fill material or other development will encroach into the floodway or non-encroachment area of a watercourse;
- (3) Development within an A or AE flood zone includes openings or other means to reduce hydrostatic pressures from floodwaters;
- (4) Habitable portions of a building and associated appurtenances shall not be located below the base flood elevation; and
- (5) There will be no alteration of primary or frontal sand dunes (other than that associated with dune restoration) or fill used for structural support for development in a VE flood zone.

E. Effect of Approval

Approval of a floodplain development permit authorizes an applicant to obtain all required elevation 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

Applicable (see Section 2.3.15).

2.4.13. Clear-Cutting Permit⁴³

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) Land-disturbing activities and tree removal in accordance with a site plan, preliminary plat, or building permit approved after *[insert effective date of this Ordinance]*.⁴⁴

⁴³ This is a new permit procedure described on Page 2.13 of the Code Assessment. The purpose of the clear-cutting permit is to ensure that development applicants do not avoid any tree protection standards adopted by the county by clear-cutting their land in advance of submitting a development application. The clear-cutting permit is not applied to lands subject to an application for a building permit, site plan, subdivision, or planned development since those applications are reviewed for compliance with the tree protection provisions. It is also not applied to farms or forestry lands. As written, the clear-cutting permit is not intended to apply to already-platted lots in a residential subdivision, but this may be an issue for further discussion in light of the situation in Carova or in other areas of maritime forest.

CHAPTER 2: ADMINISTRATION

SECTION 2.4: SPECIFIC REVIEW PROCEDURES

Subsection 2.4.13: Clear-Cutting Permit

- (b) 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.
- (c) 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.<>, 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

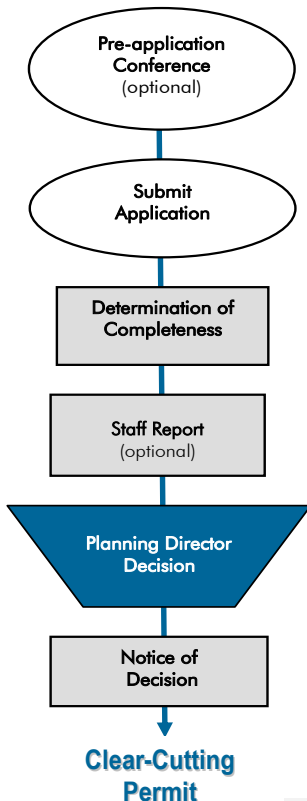
A clear-cutting permit shall be approved only upon a finding that all of the following standards are met:

[Standards to be included after drafting of tree protection standards, as appropriate.]

E. Effect of Development Approval

Applicable (see Section 2.3.13).

Amendment of Development Approval Applicable (see Section 2.3.14).



⁴⁴ Additional discussion is needed about exemptions for platted lots containing maritime forest resources.

F. Expiration of Development Approval

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

2.4.14. Variance⁴⁵

A. Purpose

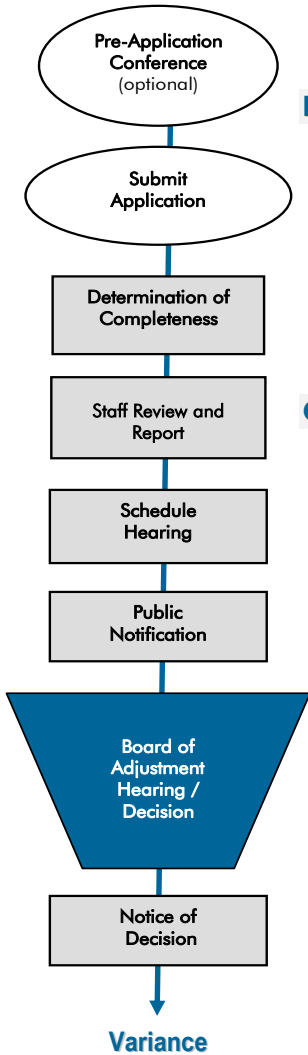
The purpose of a variance is to allow certain deviations from the dimensional standards of this Ordinance (such as height, yard setback, lot coverage, or similar numerical standards) when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner’s control (such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

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.



⁴⁵ This section carries forward the variance provisions in Section 13.8.2 and the flood damage prevention variance standards in Section 13.8.3 of the current UDO, with no substantive changes.

(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, and Section 2.4.16.D, Variance Review Standards.

D. Variance Review Standards

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

- (1)** Strict compliance with the provisions of the Ordinance, results in no reasonable use of the land;
- (2)** The alleged hardship is suffered by the applicant rather than by neighbors or the general public;
- (3)** The hardship relates to the applicant's land, rather than personal circumstances;
- (4)** The hardship is unique, or nearly so, rather than one shared by many surrounding properties;
- (5)** The hardship is not the result of the applicant's own actions; and,
- (6)** The variance will neither result in the extension of a nonconformity nor authorize the initiation of a nonconforming use of land.

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. 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.

G. Amendment of Development Approval

Applicable (see Section 2.3.14).

H. 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 Adjustment⁴⁶

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. Applicability⁴⁷

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

- (1) Modifications in a building setback by up to 20 percent in community and village center areas designated on the future land use map of the 2006 Land Use Plan.

⁴⁶ This is a new procedure designed to replace the administrative variance procedure in Section 13.8.I of the current UDO. The current administrative variance procedure allows the Planning Director to administratively reduce a required zoning district setback by up to 20 percent or two feet. The Code Assessment suggests this ability be carried forward and broadened in the new UDO to address a wider variety of standards. In addition, the Code Assessment suggests that development in some portions of the county (like community centers) be allowed to take advantage of larger adjustments as a means of providing incentives for preferred development forms. As such, we suggest the two-foot maximum be dropped, in favor of retaining the percentage figure. In addition, we suggest the application submittal requirements in Section 13.8.I.B be relocated to the Development Review Process Manual.

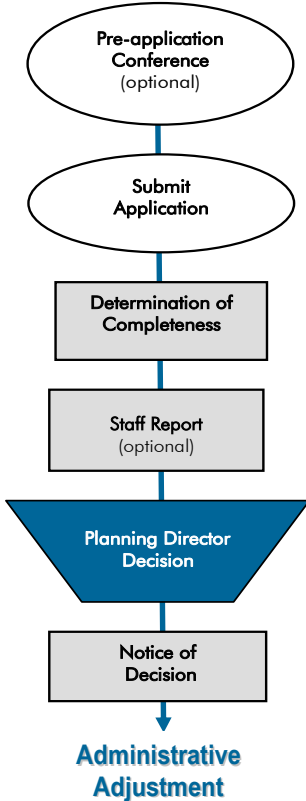
It is also common for some jurisdictions to use the administrative adjustment to allow minor variations in development and design standards. We anticipate that the range of standards available for adjustment through this process may evolve as the UDO review process continues. As currently written, the proposed administrative adjustment process is limited to just zoning district dimensional standards.

⁴⁷ This subsection may be modified to include additional modifications as the proposed UDO regulations are considered by the county. The administrative variance provisions in the current UDO allow modifications of up to 20 percent or two feet. These proposed standards remove the two-foot limitation, and carry forward the 20 percent limitation in community and village centers, and reduce the maximum modification to 15 percent in all other areas.

CHAPTER 2: ADMINISTRATION

SECTION 2.4: SPECIFIC REVIEW PROCEDURES

Subsection 2.4.15: Administrative Adjustment



- (2) Modifications in building setbacks by up to 15 percent in all other areas in the county.
- (3) Modifications in building height by up to 15 percent in all areas of the county.

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.D, Administrative Adjustment Review Standards.
- (5) **Public Hearing Scheduling and Public Notification**
Not 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 Standards⁴⁸

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 community and village center 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.
- (2) The administrative adjustment is consistent with the character of development on surrounding land, and is compatible with surrounding land uses;

⁴⁸Section 13.8.1.B.8 includes language added in August of 2009 that requires an applicant for an administrative variance related to a side or rear yard to obtain consent from adjacent landowner(s) along the same lot line. Failure to obtain this consent triggers the requirement that the request be processed as a standard variance by the Board of Adjustment. This requirement is not carried forward.

- (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. Interpretation⁴⁹

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.

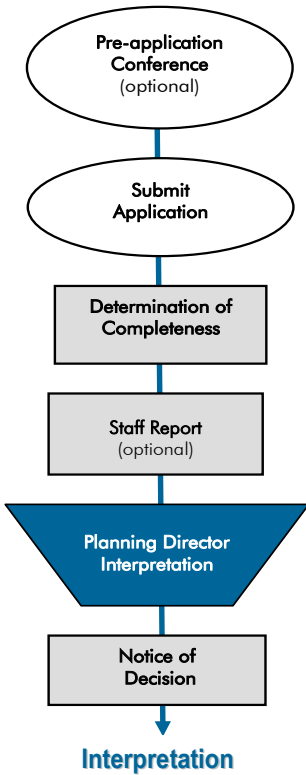
B. Applicability

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.<>, 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.

⁴⁹ This procedure replaces the interpretation provisions in Section 13.10 of the current UDO. This draft of the UDO authorizes the Planning Director to make interpretations. An appeal of the Planning Director’s interpretation may be taken to the Board of Adjustment.

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.<>, Use Table, or is prohibited in a zoning district shall be based on Section 4.<>, 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 10.4, 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 Department for public inspection, on reasonable request, during normal business hours.

2.4.17. Appeal⁵⁰**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

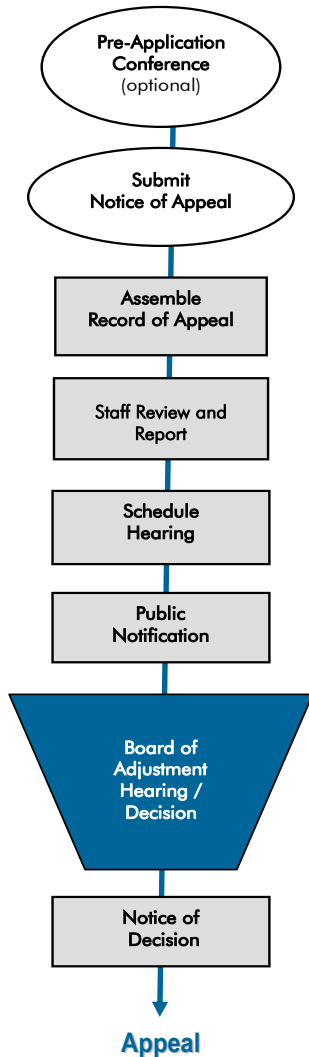
An appeal shall be initiated by filing a written Notice of Appeal with the Planning Director within:

- (1) Thirty days of the date of the interpretation or decision being appealed; or
- (2) Ten days of the date of the 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**

⁵⁰ Section 13.7.A of the current UDO specifies that all applicants for an appeal must file an appeal within 10 days of the date of the decision being appealed. This section also requires applicants for an appeal to conduct a pre-application conference prior to submitting an appeal. The requirement for a mandatory pre-application conference prior to submitting an appeal has been removed from the draft UDO.



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).

(b) A vote to reverse or modify a decision or interpretation shall require a four/fifths majority of Board of Adjustment members present and voting.

D. Appeal Review Standards

(1) 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:

CHAPTER 2: ADMINISTRATION

SECTION 2.4: SPECIFIC REVIEW PROCEDURES

Subsection 2.4.18: Development Agreement

- (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 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 (see Section 2.3.14)

G. Expiration of Appeal

Not applicable (see Section 2.3.15).

2.4.18. Development Agreement⁵¹

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

⁵¹ This is a new procedure described on Page 2.14 of the Code Assessment, that is authorized by the North Carolina Legislature, that the county might want to use for large-scale or other developments with phasing or other challenging development or monitoring issues. A development agreement may be entered into, at the discretion of a landowner and the county through the Board of Commissioners.

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SECTION 2.4: SPECIFIC REVIEW PROCEDURES

Subsection 2.4.18: Development Agreement

- (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

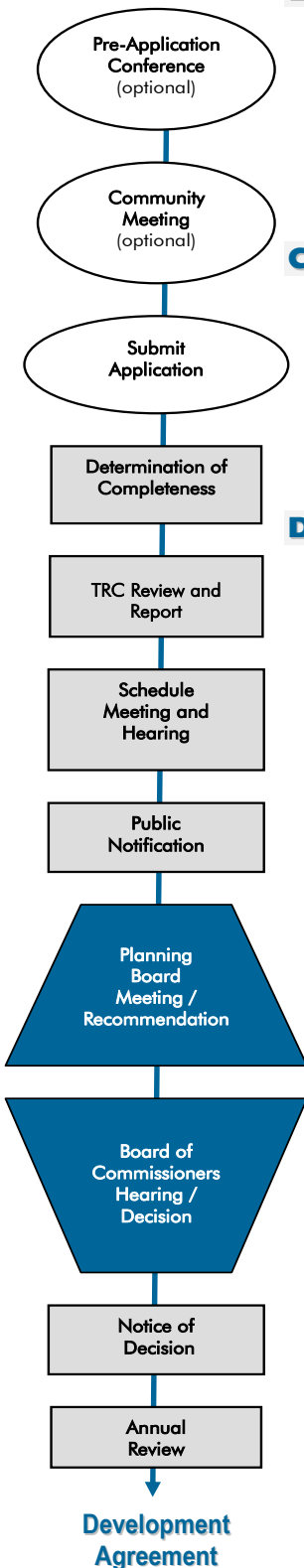
Applicable (see Section 2.3.8).

(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 2.4.18.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 2.4.18, 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 be required to 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.

CHAPTER 3. ZONING DISTRICTS

CHAPTER 4. USE STANDARDS

CHAPTER 5. DEVELOPMENT STANDARDS

CHAPTER 6. SUBDIVISION AND INFRASTRUCTURE STANDARDS

CHAPTER 7. ENVIRONMENTAL PROTECTION

8

NONCONFORMITIES

COMMENTARY:

Chapter 8: Nonconformities, includes the provisions addressing existing nonconformities within the county.

It includes the following sections:

- Section 8.1, General Applicability, contains the general standards applicable to all nonconformities, including the purpose and intent statements for the chapter, as well as the authority for any legally-established nonconformities to continue in operation. The section clarifies that it is the landowner's responsibility to demonstrate that a nonconformity does not exist, and that "routine maintenance" of a nonconformity is encouraged.
- Section 8.2, Nonconforming Uses, addresses the procedures and standards for dealing with nonconforming uses of land.
- Section 8.3, Nonconforming Structures, includes the standards for nonconforming structures, including their relationship to nonconforming uses, and the standards applicable for expansion or redevelopment.
- Section 8.4, Nonconforming Lots of Record, contains the provisions addressing nonconforming lots of record in terms of dimensional standards and setbacks.
- Section 8.5, Nonconforming Signs, carries forward the current standards for dealing with nonconforming signage.
- Section 8.6, Nonconforming Sites, addresses triggers for addressing nonconforming site features like landscaping, parking, screening, and street improvements.

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CHAPTER 8.

NONCONFORMITIES

8.1. GENERAL APPLICABILITY⁵²

8.1.1. Purpose and Scope

In the provisions established by this Ordinance, there exist uses of land, structures, lots of record, signs, and site features (e.g., off-street parking, landscaping, etc.) that were lawfully established before this Ordinance was adopted or amended, that now do not conform to its terms and requirements. The purpose and intent of this chapter is to regulate and limit the continued existence of those uses, structures, lots of record, signs, and site features that do not conform to the provisions of this Ordinance, or any subsequent amendments.

8.1.2. Authority to Continue

Nonconformities are allowed to continue, and are encouraged to receive routine maintenance in accordance with the requirements of this chapter as a means of preserving safety and appearance.

8.1.3. Determination of Nonconformity Status

In all cases, the burden of establishing that a nonconformity lawfully exists shall be the responsibility of the owner of the land on which the alleged nonconformity is located.

8.1.4. Change of Tenancy or Ownership

No change of title or possession or right to possession of property involved shall be construed to prevent the continuance of such nonconformities.

8.1.5. Increase in Nonconformity

Except as authorized by this chapter, no person shall engage in activity that increases a nonconformity.

8.1.6. Minor Repairs and Maintenance

Minor repairs and normal maintenance that are required to keep nonconforming uses, structures, lots of record, site features, and signs in a safe condition are permitted, provided the minor repair or maintenance does not extend, expand, or enlarge the nonconforming aspect. For the purposes of this section, "minor repair or normal maintenance" shall mean:

A. Maintenance of Safe Condition

Repairs that are necessary to maintain a nonconforming use, structure, lot of record, site feature, or sign in a safe condition; and

⁵² This is a new section that establishes the general standards applied to all nonconformities. It replaces Section 16.1 and 16.4. It places the burden of lawful establishment on the owner, and sets out a more robust set of provisions for reconstruction following damage than is included in Section 16.4 of the current UDO.

CHAPTER 8: NONCONFORMITIES

SECTION 8.1: GENERAL APPLICABILITY

Subsection 8.1.7: Restoration or Reconstruction Following Casualty Damage

B. Maintenance of Land for Safety

Maintenance of land areas and site aspects to protect against health hazards and promote the safety of surrounding uses.

8.1.7. Restoration or Reconstruction Following Casualty Damage

Section 16.4 of the current UDO sets out the build-back provisions for nonconforming uses and structures. The standards allow any nonconforming single-family home (whether a nonconforming structure or use) to be reconstructed with a new home of the same size or larger (provided the nonconformity is not increased). All other uses may also be reconstructed, but may not be enlarged. In the event one of these nonconformities is damaged by 25 percent or less of the assessed value, the nonconformity may be replaced without lessening nonconforming aspects (e.g., setbacks, lot coverage, height, etc.). In cases where the damage exceeds 25 percent, the nonconformity may be replaced, but must attempt to come into compliance “to the extent reasonably possible.”

As part of the UDO update, the county might want to consider modifying these current build-back provisions. Before any changes are made, however, we believe it important for us to provide some background about how other coastal communities address the issue, suggest some policy options, and then get direction on the issue. In considering this issue of build-back, most communities focus on several key organizing elements. They are: 1) the threshold of damage beyond which any reconstruction must come into full compliance, or a variation of full compliance is established, 2) distinctions between casualty damage from a natural disaster versus other forms of damage, and 3) an associated timeframe within which to complete the build-back. These three elements are key aspects in assisting the county in considering its policy goals of how to address nonconformities.

With this in mind, we suggest as a starting point the county consider several different options. One key element present in all three options is a threshold at which build-back to a conforming situation is either required or strongly encouraged. Another key element is the inclusion of a maximum time limit to complete reconstruction, or lose the ability to reconstruct. A longer time period for re-building is typically allowed in cases when damage results from a natural disaster.

Each option is listed below.

- Option 1: Do not apply a threshold for conforming replacement if a structure is damaged by an Act of God. All other damage would be subject to a threshold for conforming replacement (e.g., 60% of assessed value).
- Option 2: Apply a threshold for conforming replacement regardless of the type of damage, but apply a higher threshold for conforming replacement (e.g., 70% of assessed value) for structures damaged by an Act of God than from other kinds of damage (e.g., 60% of assessed value).
- Option 3: Apply a threshold for conforming replacement regardless of the type of damage, but apply a lower thresholds than in Option 2 (e.g., 55% of assessed value) for structures damaged by an Act of God than from other kinds of damage (e.g., 45% of assessed value).
- Option 4: Apply a threshold for conforming replacement regardless of the type of damage, but apply a higher threshold for conforming replacement (e.g., 70% of assessed value) for structures damaged by an Act of God than from other kinds of damage (e.g., 60% of assessed value), but include a provision that allows nonconforming development damaged by more than the threshold to build-back if they receive approval of a use permit that demonstrates the development will be measurably more hazard resilient.

8.2. NONCONFORMING USES⁵³**8.2.1. General**

Nonconforming uses are declared generally incompatible with the permitted uses in the district in which they are located and with the provisions of this Ordinance. Nonconforming uses shall be subject to the standards in this subsection.

8.2.2. Change of Use⁵⁴

A nonconforming use shall not be changed to any other nonconforming use. Once a nonconforming use has ceased to operate or been discontinued for a period of 180 days or longer, it shall only be replaced with a conforming use.

8.2.3. Expansion and Enlargement

- A.** Except in accordance with this subsection, a nonconforming use shall not be enlarged, expanded in area, or intensified.
- B.** An existing nonconforming use may be enlarged into any portion of the structure where it is located provided the area proposed for expansion was designed and intended for such use prior to the date the use became a nonconformity. In no instance shall a nonconforming use be extended to additional structures or to land outside the original structure.
- C.** Open air uses that are nonconformities, including but not limited to outdoor sales areas, parking lots, or storage yards, shall not be extended to occupy more land area than that in use when the open air use became nonconforming.

8.2.4. Replacement of a Nonconforming Mobile Home

Class B or C mobile homes that are nonconforming uses may be replaced by a Class A mobile home or another Class B mobile home, provided:

- A.** The replacement mobile home is as large or larger than the mobile home being replaced;
- B.** The replacement mobile home is located on the lot within 180 days of removal of the original mobile home;
- C.** All required permits related to sewage treatment are issued by the Albemarle Regional Health Services Department;
- D.** A masonry curtain wall is placed around a Class A mobile home;
- E.** An all-weather base underpinning material is placed around a Class B mobile home; and

⁵³ This section replaces Section 16.3 in the current UDO and consolidates the various provisions related to nonconforming uses, including replacement, abandonment, and enlargement with few substantive changes from the current provisions. Provisions related to nonconforming site features like parking are addressed in new Section 8.6, Nonconforming Site Features.

⁵⁴ The current UDO uses 270 days as the date for abandonment or discontinuance of a nonconformity. This proposed UDO reduces that time to 180 days, which is more in keeping with nation best practice, and the county's desire to curtail nonconformities.

CHAPTER 8: NONCONFORMITIES

SECTION 8.3: NONCONFORMING STRUCTURES

Subsection 8.2.5: Nonconforming Mobile/Manufactured Home Parks

- F. The mobile home complies with the setback requirements in this Ordinance, to the maximum extent practicable.

8.2.5. Nonconforming Mobile/Manufactured Home Parks

- A. Nonconforming mobile/manufactured home parks may continue in operation, and manufactured homes may be replaced, provided:
 - (1) The park is not expanded in size; and
 - (2) The number of mobile/manufactured homes is not increased beyond the number that existed on April 1, 2002.
- B. Improvements to a water or sewage treatment system serving a nonconforming mobile/manufactured home park for the purpose of improving public health shall be permitted, provided the improvements do not result in an increase in the number of mobile/manufactured homes in the park.

8.2.6. Discontinuance or Abandonment

- A. A nonconforming use shall not be re-established after discontinuance for a period of 180 consecutive calendar days or more.
- B. Efforts to renovate or repair the nonconforming use are not considered a vacancy, abandonment, or discontinuance, provided all appropriate permits or development approvals are obtained, and provided the renovation or repair is completed within 180 days from commencement of repair or renovation, and the use is re-established within 30 days from the time the renovation or repairs are completed. (Failure to complete the repairs or renovation within 180 days or re-establish the use within 30 days following repairs or renovation shall constitute discontinuance, and a nonconforming use shall not be re-established.)
- C. In cases where the building or structure housing a nonconforming use is discontinued or abandoned, all associated open-air activities (e.g., storage) shall also cease.

8.2.7. Accessory Uses

Once a nonconforming principal use is discontinued, all associated accessory uses shall cease operations within 30 days.

8.3. NONCONFORMING STRUCTURES⁵⁵

8.3.1. Relationship with Nonconforming Uses

- A. A nonconforming principal structure containing a conforming use may only continue in accordance with the provisions of this sub-section.
- B. A nonconforming principal structure containing a nonconforming use may only continue in accordance with the standards in Section 8.2, Nonconforming Uses.

⁵⁵ This is a new section that consolidates the provisions for nonconforming structures taken from various subsections in Chapter 16 of the current UDO. The standards set out the provisions for continued use of the structure, how structures may be altered or expanded with respect to setbacks. These standards also allow nonconforming structures to be expanded with a use permit, provided additional steps are taken to increase the structure's hazard resiliency.

CHAPTER 8: NONCONFORMITIES

SECTION 8.4: NONCONFORMING LOTS OF RECORD

Subsection 8.3.2: Continuation

8.3.2. Continuation

Normal repair and maintenance may be performed to allow the continued use of nonconforming principal and accessory structures.

8.3.3. Setbacks

Structures that do not meet the minimum setback distances for the district where located may be redeveloped or reconstructed with reduced minimum setbacks provided:

- A.** The land can not reasonably be developed for the proposed use without a reduction in the minimum setbacks; and
- B.** The reduction in minimum setbacks are necessitated by the lot's shape or size; and
- C.** The land may be developed without a significantly-adverse impact on adjacent lands or the health and safety of the public; and
- D.** Financial hardship to the land owner is not the sole reason for the need to reduce minimum setback requirements; and
- E.** In cases where minimum setbacks must be reduced, the reduction is the absolute minimum necessary to accommodate the proposed development.

8.3.4. Alteration or Expansion

Expansion of the structure in a way that complies with applicable dimensional standards or that decreases the degree of nonconformity is allowed.

8.3.5. Relocation

A nonconforming structure shall not be moved, in whole or in part, to another location on or off the parcel of land on which it is located, unless upon relocation it conforms to the requirements of this Ordinance.

8.4. NONCONFORMING LOTS OF RECORD

No use or structure shall be located on a nonconforming lot of record established after August 2, 1965, except in accordance with the standards in this section.

8.4.1. Nonconforming Lot Area, Width, or Lot Coverage

- A.** A legally established lot established after August 2, 1965 that does not conform to the minimum lot area, minimum lot width, or maximum lot coverage requirements for the zoning district where located shall be treated as a conforming lot in cases where the lot can comply with all other applicable dimensional or lot configuration standards applicable in the zoning district where located (see Chapter 3: Zoning Districts).
- B.** Uses subject to a minimum site size requirement are prohibited on a nonconforming lot smaller than the required minimum site size.

8.4.2. Status of Structure on Nonconforming Lots

- A.** Conforming structures legally established on a nonconforming lot prior to the effective date of this Ordinance (or any amendment thereto) may be continued, enlarged,

CHAPTER 8: NONCONFORMITIES

SECTION 8.5: NONCONFORMING SIGNS

Subsection 8.4.3: Development on Vacant Nonconforming Lots

extended, reconstructed, or structurally altered in any way that is in conformance with the standards of this Ordinance.

- B.** Nonconforming structures legally established on a nonconforming lot prior to the effective date of this Ordinance (or any amendment thereto) may be continued, enlarged, or redeveloped only in accordance with the standards in Section 8.3, Nonconforming Structures.

8.4.3. Development on Vacant Nonconforming Lots⁵⁶

Development on a vacant nonconforming lot shall meet the minimum dimensional requirements (including setbacks) for the zoning district where located, to the maximum extent practicable, as determined by the Planning Director.

8.4.4. Governmental Acquisition of Land

Conforming lots subject to governmental acquisition of a portion of the lot for a public purpose that results in the lot becoming nonconforming because it no longer complies with lot area or width standards of the district shall be deemed conforming upon receipt of a zoning compliance permit (see Section 2.<>), and compliance with the following standards:

- A.** The development proposed complies with Table 4.<>, Use Table.
- B.** The development proposed complies with the dimensional standards of this Ordinance, to the maximum extent practicable;
- C.** The development proposed is designed to comply with the off-street parking and landscaping standards of this Ordinance, to the maximum extent practicable;
- D.** The development proposed complies with all other standards and requirements of this Ordinance; and
- E.** The proposed development is designed and located in a way that is compatible with surrounding development.

8.4.5. Change of Nonconforming Lot

The boundaries, shape, or size of a nonconforming lot may be modified through a lot line adjustment, provided the lot line adjustment results in the lot becoming more conforming.

8.5. NONCONFORMING SIGNS⁵⁷

8.5.1. In General

Nonconforming signs may be continued, subject to the standards in this section.

- A.** No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign.

⁵⁶ Additional discussion is needed about new standards that require vacant nonconforming lots under common ownership to be combined prior to development. This is a standard used in many communities that have platted vacant lots that do not conform to zoning district requirements.

⁵⁷ This section carries forward Section 16.9 from the current UDO with no substantive changes.

CHAPTER 8: NONCONFORMITIES

SECTION 8.5: NONCONFORMING SIGNS

Subsection 8.5.2: Nonconforming Off-Premise Signs

- B.** No nonconforming sign may be enlarged or altered in such a manner as to increase the nonconformity, including, but not limited to, increasing the display surface area, height, or decreasing the required minimum separation between signs.
- C.** When all or a portion of a nonconforming sign is removed as part of a state road widening project, the nonconforming sign may be relocated or replaced in a manner not to exceed the specifications of the original sign (i.e., height, size, lighting, etc.), subject to the following:
 - (1)** The relocation or replacement sign shall be parallel to the original sign location away from the right-of-way.
 - (2)** Application for a permit to replace a nonconforming sign in the right-of-way is made within 180 days after the existing nonconforming sign is removed.
 - (3)** The message of a nonconforming sign may be changed, provided no new nonconformities are created.

8.5.2. Nonconforming Off-Premise Signs⁵⁸

A. Replacement in Same Location

A nonconforming off-premise sign may be replaced at the same location, if it complies with the following:

- (1)** The new sign does not exceed the specifications of the nonconforming sign being replaced in terms of height, display surface area, number of sides, setback, and illumination.
- (2)** The application for a sign permit to erect the new sign is made within 180 days of removal of the existing nonconforming sign.
- (3)** The new sign is located within the footprint boundaries of the replaced nonconforming off-premise sign.

B. Replacement on Same Lot

A nonconforming off-premise sign may be relocated on the same lot, provided it complies with the following:

- (1)** Not exceed 300 square feet in surface area.
- (2)** Not be less than 300 feet from a pre-existing off-premise sign on the same side of the road.
- (3)** Not be located closer than 15 feet to a street right-of-way or within a sight triangle.
- (4)** Not exceed a height of 20 feet measured from ground level. In cases where the adjacent grade has an elevation below the road bed, the sign may maintain a height that is the lesser of 20 feet above the road bed or 25 feet from ground level.

⁵⁸ County staff has suggested that these standards are very problematic, and that they not be carried forward in the new UDO due to difficulty in administration and enforcement

CHAPTER 8: NONCONFORMITIES

SECTION 8.5: NONCONFORMING SIGNS

Subsection 8.5.2: Nonconforming Off-Premise Signs

C. Maintenance

- (1) All off-premises signs and all components thereof, including without limitation supports, braces, and anchors, shall be kept in a state of good repair. With respect to off-premises freestanding signs, components (supporting structures, back, etc.) not bearing a message shall be constructed of materials that blend with the natural environment or shall be painted a neutral color to blend with the natural environment.
- (2) If an off-premises sign other than a billboard advertises a business, service, commodity, accommodation attraction or other enterprises or activity that is no longer operating or being offered or conducted, the sign shall be considered abandoned and shall, within 30 days after such abandonment, be removed by the sign owner, owner of the property where the sign is located, or other party having control over the sign.
- (3) If the message portion of an off-premises sign is removed, leaving only the supporting “shell” of a sign or the supporting braces, anchors, or similar components, the owner of the sign or the owner of the property where the sign is located or other person having control over the sign shall, within 30 days of the removal of the message portion of the sign, either replace the entire message portion of the sign or remove the remaining components of the sign.
- (4) The area within ten feet in all directions of any part of an off-premises freestanding sign shall be kept clear of all debris and all undergrowth more than 12 inches in height.

D. Exterior Lighting

Off-premise signs shall comply with the following exterior lighting standards:

- (1) No off-premises sign within 250 feet of an existing residential use not owned by the owner of the sign may be illuminated between the hours of 12:00 midnight and 6:00 a.m., unless the impact of the lighting beyond the boundaries of the lot where the sign is located is less than 1.5 foot candles at the lot line.
- (2) Lighting directed toward an off-premises sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into a public right-of-way or residential development.
- (3) No off-premises sign may be illuminated by flashing or intermittent lights or lights of changing degrees of intensity, except signs indicating the time, date, weather conditions, or similar information.

E. Protection of Existing Off-site Vegetation

In no instance shall the owner of an off-premise sign damage, trim, destroy, or remove any trees, shrubs, or other vegetation located:

- (1) Within the right-of-way of any public street or road, unless the work is done in accordance with the express written authorization of the NCDOT;
- (2) On property that is not under the ownership or control of the person doing or responsible for such work, unless the work is done in accordance with the express authorization of the person owning the property where such trees or shrubs are located; and,

CHAPTER 8: NONCONFORMITIES

SECTION 8.6: NONCONFORMING SITES

Subsection 8.6.1: Purpose

- (3) In any area where the trees or shrubs are required to remain under a permit issued in accordance with this Ordinance.

F. Abandonment

If a nonconforming off-premise sign remains blank for a continuous period of 12 months, it shall be deemed abandoned and shall, within 30 days of abandonment, be altered to comply with Section 5.<>, Signs, or be removed by the sign owner, owner of the property where the sign is located, or other person having control over the sign. For purposes of this section, a sign is "blank" if:

- (1) It advertises a business, service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted.
- (2) The advertising message it displays becomes illegal in whole or substantial part.
- (3) The advertising copy, other than the rental of the sign, is removed.

8.6. NONCONFORMING SITES⁵⁹

8.6.1. Purpose

The purpose of this section is to provide a means whereby the county may require certain nonconforming site features to be brought into compliance with the standards of this Ordinance as part of remodeling or expansion of a structure.

8.6.2. Applicability

- A. For purposes of this section, the term “nonconforming site features” includes the following:
 - (1) Nonconforming off-street parking;
 - (2) Nonconforming landscaping;
 - (3) Nonconforming perimeter buffers; and
 - (4) Nonconforming screening walls or fences.
- B. If an application is filed for a building permit for the remodeling or expansion of a structure and the development site contains one or more nonconforming site features identified in Subsection (A) above, and the value of the proposed improvements totals at least 25 percent of the assessed value of the existing structure, the applicant shall be required to address the nonconforming site feature as provided in this section.
- C. County staff may develop administrative guidelines to assist in the implementation of this section, including guidelines for the resolution of conflicts when it may not be possible for one or more types of nonconforming site features to be brought into compliance with the requirements of this Ordinance because of particular site constraints or impacts on adjacent sites.

⁵⁹ As described in the Code Assessment, this section is proposed to address nonconforming site features, and as such, replaces Sections 16.3.G & H, 16.8, and 16.10 in the current UDO.

CHAPTER 8: NONCONFORMITIES

SECTION 8.6: NONCONFORMING SITES

Subsection 8.6.3: Determination of Cost and Assessed Value

8.6.3. Determination of Cost and Assessed Value

- A.** For purposes of determining if upgrading of nonconforming site features is required by this subsection, the cost of the remodeling shall be as shown on the approved building permit application.
- B.** Assessed value shall be based on the most recently available Currituck County tax rolls.

8.6.4. Remodeling of Buildings or Structures

If a building permit is required for interior or exterior remodeling of the building or structure, the remodeling or redevelopment shall require correction of existing on-site nonconforming off-street parking, landscaping, perimeter buffer, screening, and signage in accordance with this section.

A. Off-Street Parking, Landscaping, Perimeter Buffers, Signage and Screening

(1) 25 Percent or Less of Structure Value

Remodeling in any continuous five-year period that costs 25 percent or less of the current assessed value of the structure shall not require any correction to nonconforming site aspects.

(2) More Than 25 Percent but Less Than 75 Percent of Structure Value

Remodeling in any continuous five-year period that costs more than 25 percent but less than 75 percent of the current assessed value of the structure shall require that a corresponding percentage of the off-street parking, landscaping, perimeter buffer, and screening standards of this Ordinance be installed or upgraded on the site, until the site achieves 100 percent compliance.

Example: A hypothetical building is required to provide at least 40 off-street parking spaces, but the building site only includes 20 spaces. If the building is remodeled such that the cost of remodeling equals 30 percent of the building's assessed value, the remodeling project must add 12 parking spaces (30% x 40 required spaces). This increases the development's degree of compliance with off-street parking standards from 50 percent (20 of 40 required spaces) to 80 percent (32 of 40 required spaces).

(3) 75 Percent or More of Structure Value

Remodeling projects that cost 75 percent or more of the current assessed value of the structure shall require 100 percent compliance with the off-street parking, landscaping, perimeter buffer, screening, and signage standards of this Ordinance.

(4) Three or Fewer Additional Parking Spaces

When three or fewer additional off-street parking spaces are required under this subsection as a result of a remodeling project, such additional off-street parking is not required to be installed.

B. Physically Constrained Properties- Comply to Maximum Extent Practicable

- (1)** Lands that are physically constrained (due to limited size, topography, or other environmental considerations) from complying with these provisions shall

CHAPTER 8: NONCONFORMITIES

SECTION 8.6: NONCONFORMING SITES

Subsection 8.6.5: Additions and Expansions

comply to the maximum extent practicable, as determined by the Planning Director.

- (2) For purposes of determining when a correction is required, the cost of the remodeling shall be as shown on the approved building permit application.

8.6.5. Additions and Expansions

Additions and expansions to structures on nonconforming sites shall require correction of existing on-site nonconforming off-street parking, landscaping, perimeter buffer, screening, and signage standards in accordance with this section.

A. Off-Street Parking, Landscaping, Perimeter Buffers, Signage and Screening

(1) Expansion of 50 Percent or Less of Gross Square Footage Over 5 Years

Expansions in any continuous five-year period, which result in a 50 percent or less increase in the gross square footage of the existing structure (measured at the beginning of the five-year period), require that a corresponding percentage of the off-street parking, landscaping, perimeter buffer, and screening standards of this Ordinance be installed or upgraded on the site, until the site achieves 100 percent compliance.

Example: if the addition is 25 percent of the area of the existing structure and the site contains only 50 percent of the required landscaping, 25 percent of the required landscaping for the entire site must be provided, thereby bringing the landscaping on the site to 75 percent of the total required. Existing landscaping on the site shall be retained or replaced but shall not count toward the required percentage of new landscaping.

(2) Expansion of Greater Than 50 Percent of Gross Square Footage Over 5 Years

Expansions over any continuous five-year period, which result in a greater than 50 percent increase of the gross square footage of the existing structure (measured at the beginning of the five-year period), require the entire property to meet all of the off-street parking, landscaping, perimeter buffer, screening, and signage standards of this Ordinance.

B. Addition of Outdoor Storage Area Only

When only outdoor operations/storage/display areas are being added or increased on a site, the percentage increase in outdoor operations area shall require a corresponding percentage increase in perimeter buffers and screening. Perimeter buffer and screening augmentation shall be located so as to achieve the performance objectives in Section 5.<>, Landscaping, with priority given to screening the impacts of outdoor operations.

8.6.6. Physically Constrained Properties- Comply to Maximum Extent Practicable

Lands that are physically constrained (due to limited size, topography, or other environmental considerations) from complying with these provisions shall comply, to the maximum extent practicable, as determined by the Planning Director.



ENFORCEMENT

COMMENTARY:

Chapter 9: Enforcement, consolidates all provisions related to enforcement.

It includes seven sections: They

- Set forth the purpose of the Chapter (Section 9.1, Purpose);
- Establish that compliance with all provisions of the UDO is required (Section 9.2, Compliance Required);
- Spell out what actions result in violation of the UDO (Section 9.3, Violations);
- Establish who is responsible for UDO violations (Section 9.4, Responsible Persons);
- Detail who is responsible for enforcement (the Planning Director), handling complaints, investigating and determining violations, notifying violators, and initiating remedies and penalties (Section 9.5, Enforcement Generally);
- Spell out the assortment of remedies (Stop Work Orders, Permit Revocations, Injunctions, Abatement Orders, etc.) and penalties (criminal and civil) that can be used against violators (Section 9.6, Remedies and Penalties); and
- Establish that remedies and penalties are cumulative (Section 9.7, Cumulative Remedies and Penalties).

Chapter 9. Enforcement

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CHAPTER 9. ENFORCEMENT

9.1. PURPOSE

This chapter establishes procedures through which the county seeks to ensure compliance with the provisions of this Ordinance and obtain corrections for Ordinance violations. It also sets forth the remedies and penalties that apply to violations of this Ordinance. The provisions of this chapter are intended to encourage the voluntary correction of violations, where possible.

9.2. COMPLIANCE REQUIRED

Compliance with all the procedures, standards, and other provisions of this Ordinance is required by all persons owning, developing, managing, using, or occupying land or structures in the county.

9.3. VIOLATIONS

9.3.1. Violations Generally

A. Failure to Comply with Ordinance or Term or Condition of Approval Constitutes Ordinance Violation

Failure to comply with a standard, requirement, prohibition, or limitation imposed by this Ordinance, or the terms or conditions of any permit or other development approval or authorization granted in accordance with this Ordinance shall constitute a violation of this Ordinance punishable as provided in this chapter.

B. Permits or Permit Approvals only Authorize Development Approved

Permits or development approvals issued by a decision-making body or county staff authorize only the use, arrangement, location, design, density or intensity, and development set forth in such permits or development approvals.

9.3.2. Specific Violations

It shall be a violation of this Ordinance to undertake any activity contrary to the provisions of this Ordinance, including but not limited to any of the following:

- A.** Develop land or a structure without first obtaining all appropriate permits or development approvals, and complying with their terms and conditions.
- B.** Occupy or use land or a structure without first obtaining all appropriate permits or development approvals, and complying with their terms and conditions.
- C.** Subdivide land without first obtaining all appropriate permits or development approvals required to engage in subdivision, and complying with their terms and conditions.
- D.** Excavate, grade, cut, clear, or undertake any land disturbing activity without first obtaining all appropriate permits and development approvals, and complying with their terms and conditions.

CHAPTER 9: ENFORCEMENT

SECTION 9.4: RESPONSIBLE PERSONS

Subsection 9.5.1: Responsibility For Enforcement

- E.** Remove existing trees from a site or parcel of land without first obtaining appropriate permits and development approvals, and complying with their terms and conditions.⁶⁰
- F.** Disturb any landscaped area or vegetation required by this Ordinance.
- G.** Install, create, erect, alter, or maintain any sign without first obtaining the appropriate permits or development approvals, and complying with their terms and conditions.
- H.** Fail to remove any sign installed, created, erected, or maintained in violation of this Ordinance, or for which the permit has expired.
- I.** Create, expand, replace, or change any nonconformity except in compliance with this Ordinance.
- J.** Reduce or diminish the requirements for development, design, or dimensional standards below the minimum required by this Ordinance.
- K.** Increase the intensity or density of development, except in accordance with the standards of this Ordinance.
- L.** Through any act or omission, fail to comply with any other provisions, procedures, or standards as required by this Ordinance.

9.4. RESPONSIBLE PERSONS

The owner, tenant, or occupant of any land or structure, and an architect, engineer, builder, contractor, agent, or any other person who participates in, assists, directs, creates, or maintains a situation that constitutes a violation of this Ordinance may be held responsible for the violation and subject to the remedies and penalties set forth in this chapter.

9.5. ENFORCEMENT GENERALLY

9.5.1. Responsibility For Enforcement

The Planning Director shall be responsible for enforcing the provisions of this Ordinance in accordance with the North Carolina General Statutes.

9.5.2. Complaints Regarding Violations

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. The complaint, stating fully the cause and basis therefore shall be filed with the Planning Director, who shall properly record such complaint, investigate, and take appropriate action as provided by this Ordinance.

9.5.3. Inspections

On presenting proper credentials, the Planning Director may enter upon land or inspect any structure to ensure compliance with the provisions of this Ordinance. These inspections shall be carried out during normal business hours unless the Planning Director determines there is an emergency necessitating inspections at another time.

⁶⁰ This provision will evolve as the UDO is drafted.

9.5.4. Enforcement Procedure**A. Investigation of Complaint**

On receiving a written complaint, the Planning Director shall investigate the complaint and determine whether a violation of this Ordinance exists.

B. Notice of Violations

- (1)** On finding that a violation of this Ordinance exists, whether from an investigation of a written complaint or otherwise, the Planning Director shall provide written notification of the violation, by personal service or first class mail, to the owner of the property on which the violation exists and the person causing or maintaining the violation. Such notification shall:
 - (a)** Describe the location and nature of the violation;
 - (b)** State the actions necessary to abate the violation; and
 - (c)** Order that the violation be corrected within a specified reasonable time period stated in the notice of violation.
- (2)** The notice of violation shall state what course of action is intended if the violation is not corrected with the specified time limit. The notice of violation shall also advise the violators of their rights to appeal the notice of violation to the Board of Adjustment in accordance with Section 2.<>, Appeal.
- (3)** On receiving a written request for extension of the time limit for correction specified in the notice of violation, the Planning Director may, for good cause shown, grant a single extension of the time limit.
- (4)** If the owner of the property cannot be located or determined, the Planning Director shall post a copy of the notice on the building, structure, sign, or site that is the subject of the violation. In such a case, the time limit for correction of the violation shall be deemed to begin five days after the notice is posted.

C. Application of Remedies and Penalties

On determining that the violator has failed to correct the violation by the time limit set forth in the notice of violation, or any granted extension thereof, or has failed to timely appeal the notice of violation in accordance with Section 2.<>, Appeal, the Planning Director shall take appropriate action, as provided in Section 9.6, Remedies and Penalties, to correct and abate the violation and to ensure compliance with this Ordinance.

D. Emergency Enforcement without Notice

On determining that delay in abating the violation would pose a danger to the public health, safety, or welfare, the Planning Director may seek immediate enforcement without prior written notice by invoking any of the remedies authorized in Section 9.6, Remedies and Penalties.

E. Notice of Appeal

Filing of a notice of appeal regarding an alleged violator of this Ordinance shall stay further action by the county until the appeal has been reviewed and decided by the Board of Adjustment (see Section 2.<>, Appeal).

F. Repeat Violations

In addressing repeat violations by the same offender over any two-year period, the county may commence the application of remedies or penalties at the stage in the process where the previous violation was resolved.

9.6. REMEDIES AND PENALTIES

The county may use any combination of the following remedies and enforcement powers to administer and enforce this Ordinance.

9.6.1. Remedies

A. Stop Work Order Issuance

Whenever a building or structure is being constructed, demolished, renovated, altered, or repaired in violation of any applicable provision of this Ordinance, the Planning Director may issue a Stop Work Order. The Stop Work Order shall be in writing, directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons for cessation, and the action(s) necessary to lawfully resume work.

B. Injunction

When a violation occurs, the Planning Director may, either before or after the initiation of other authorized actions, apply to the appropriate court for a mandatory or prohibitory injunction ordering the offender to correct the unlawful condition or cease the unlawful use of the land in question.

C. Order of Abatement

In addition to an injunction, the county may apply for and the court may enter into Order of Abatement as part of the judgment in the case. An Order of Abatement may direct any of the following actions:

- (1)** That buildings or other structures on the property be closed, demolished, or removed;
- (2)** That fixtures, furniture, or other moveable property be moved or removed entirely;
- (3)** That improvements, alterations, modifications, or repairs be made; or
- (4)** That any other action be taken as necessary to bring the property into compliance with this Ordinance.

D. Equitable Remedy

The county may apply to a court of law for any appropriate equitable remedy to enforce the provisions of this Ordinance. The fact that other remedies are provided under general law or this Ordinance shall not be used by a violator as a defense to the county's application for equitable relief.

E. Execution of Court Decisions

The Planning Director may execute the Order of Abatement and will have a lien on the property in the nature of a mechanic's and materialman's lien for the cost of executing the order.

F. Revocation of Permit or Approval

No person may continue to make use of land or buildings in the manner authorized by a zoning permit, special use permit, conditional use permit, or sign permit approved prior to *[insert the effective date of this Ordinance]*, after such permit has been revoked in accordance with this section, or a use permit, zoning compliance permit, or sign permit approved after *[insert effective date of this Ordinance]*. The Planning Director may revoke any such permit or approval in accordance with the following.

(1) Use Permit, Conditional Use Permit, and Special Use Permit

- (a)** Notice must be provided by the Planning Director to a permit recipient prior to revocation of a use permit, conditional use permit, or special use permit.
- (b)** The notice shall inform the permit recipient of the alleged grounds for the revocation.
- (c)** The burden of presenting evidence sufficient to authorize the permit-issuing authority to revoke the permit shall be upon the party advocating that position.
- (d)** A motion to revoke a permit by the decision-making body shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.

(2) Zoning Compliance Permit and Zoning Permit

- (a)** Notice of the intent to revoke a zoning compliance permit or zoning permit shall be provided by the Planning Director ten days prior to the revocation.
- (b)** The notice shall inform the recipient of the alleged reasons for the revocation and of the right to obtain an informal hearing on the allegations.
- (c)** If the permit is revoked, the Planning Director shall provide a written statement of the reasons for revocation.

(3) Sign Permit or Zoning Permit

- (a)** The Planning Director may revoke a sign permit or zoning permit issued for signage for any of the following reasons:
 - (i)** Issuance of the permit under a mistake of material fact when, had the correct fact(s) been known, the permit would not have been issued;
 - (ii)** Misrepresentation of a material fact by the applicant for a sign permit; or,
 - (iii)** Failure to comply with any of the provisions of this chapter, except that a permit for a nonconforming sign may not be revoked so long as the nonconforming situation is allowed to continue pursuant to Chapter 9: Nonconformities.
- (b)** Before revoking a sign permit, the Planning Director shall give the sign owner 20 days notice by certified mail of the intent to revoke the permit and shall inform such person of the reasons for the proposed revocation and of the sign owner's right to obtain an informal hearing on the allegations. If the permit is revoked, the Planning Director shall

CHAPTER 9: ENFORCEMENT

SECTION 9.6: REMEDIES AND PENALTIES

Subsection 9.6.2: Civil Penalties

provide a written statement of reasons to the owner. The Planning Director shall also inform the owner of the right to appeal the decision to the Board of Adjustment.

- (c) No person may continue to operate, maintain, or leave standing any sign or part or component thereof for more than ten days after the permit authorizing the sign has been revoked or expired.

G. Denial or Withholding of Permits

The Planning Director may deny or withhold authorization to use or develop any land, structure, or improvements until an alleged violation and associated civil penalty related to such land, use, or development is corrected.

H. Removal of Signs from Street Right-of-Way

Where signs are placed in a public street right-of-way in violation of this Ordinance, the Planning Director may remove and destroy or otherwise dispose of such signs without Notice of Violation.

9.6.2. Civil Penalties

A. General

In addition to the other remedies cited in this Ordinance for the enforcement of its provisions, the standards in this Ordinance may be enforced through the issuance of civil penalties.

B. Citation

Violation of this Ordinance subjects the violator to a penalty. To impose a civil penalty, the Planning Director shall first provide the violator a written citation, either by mail or personal service. The citation shall describe the violation, specify the amount of the civil penalty being imposed, and direct the violator to correct the violation or pay the civil penalty to the county within a stated time period. Unless otherwise specified, each day's continuing violation of any provision of this Ordinance shall be separate and distinct offense.

C. Amount of Civil Penalty

The amount of civil penalties for violations of this Ordinance shall not exceed a maximum amount of \$500 per day for each day the violation continues.

D. Recovery of Civil Penalty

- (1) If the violator fails to pay the civil penalty within ten days of the citation, the county may recover the penalties in a civil action in the nature of debt.
- (2) A civil penalty may not be appealed to the Board of Adjustment if the appeal is not filed within the time period specified in the citation.

9.6.3. Cumulative Remedies and Penalties

The remedies and penalties provided for violations of this Ordinance shall be cumulative and in addition to any other remedy or penalty provided by law, and may be exercised in any order.

10 DEFINITIONS AND MEASUREMENT

COMMENTARY:

Chapter 10: Definitions and Measurement, contains the standards for interpretation and the definitions used in this Ordinance.

- Section 10.1, General Rules for Interpretation, address the meanings and intent of words and commonly used phrases, clarifies that the text is the controlling factor when a diagram, table, or chart differs from the text, discusses how time is to be calculated, and includes provisions authorizing the delegation of authority from specified county officials to professional-level designees.
- Section 10.2, Table of Abbreviations, sets out the various acronyms and abbreviations used in this Ordinance.
- Section 10.3, Rules of Measurement, sets out the rules for determining dimensional requirements and procedures for determining consistent measurements such as height, setback, and width.
- Section 10.4, Definitions, includes the definitions used in the UDO and incorporates some new definitions where appropriate.

Chapter 10: Definitions and Measurement

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CHAPTER 10. DEFINITIONS AND MEASUREMENT

10.1. GENERAL RULES FOR INTERPRETATION⁶¹

The following rules shall apply for construing or interpreting the terms and provisions of this Ordinance.

10.1.1. Meanings and Intent

All provisions, terms, phrases, and expressions contained in this Ordinance shall be interpreted in accordance with the general purposes set forth in Section 1.3, General Purpose and Intent, and the specific purpose statements set forth throughout this Ordinance. When a specific section of these regulations gives a different meaning than the general definition provided in this Chapter 10: Definitions and Measurement, the specific section's meaning and application of the term shall control.

10.1.2. Headings, Illustrations, and Text

In the event of a conflict or inconsistency between the text of this Ordinance and any heading, caption, figure, illustration, table, or map, the text shall control. Graphics and other illustrations are provided for informational purposes only and should not be relied upon as a complete and accurate description of all applicable regulations or requirements.

10.1.3. Lists and Examples

Unless otherwise specifically indicated, lists of items or examples that use terms like “for example,” “including,” and “such as,” or similar language are intended to provide examples and are not exhaustive lists of all possibilities.

10.1.4. Computation of Time

- A.** The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the county, the deadline or required date of action shall be the next day that is not a Saturday, Sunday, or holiday observed by the county. References to days are calendar days unless otherwise stated.
- B.** Whenever a person has the right or is required to do some act within a prescribed period of time following the service of a notice or other document via mailed delivery, three days shall be added to the prescribed period.⁶²

⁶¹ This is a new section that sets out the basic rules of construction of text in this Ordinance. This section builds on the standards in Sections 1.10, 1.11, and 1.12 in the current UDO.

⁶² This section carries forward Section 1.10.B of the current UDO, and is included in recognition of inaccessibility to portions of the county.

CHAPTER 10: DEFINITIONS AND MEASUREMENT

SECTION 10.1: GENERAL RULES FOR INTERPRETATION

Subsection 10.1.5: References to Other Regulations/Publications

10.1.5. References to Other Regulations/Publications

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition of such regulation, resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.

10.1.6. Delegation of Authority

Any act authorized by this Ordinance to be carried out by a specific official of the county may be carried out by a professional-level designee of such official.

10.1.7. Technical and Non-Technical Terms

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

10.1.8. Public Officials and Agencies

All public officials, bodies, and agencies to which references are made are those of the County of Currituck, unless otherwise indicated.

10.1.9. Mandatory and Discretionary Terms

The words “shall,” “must,” and “will” are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words “may” and “should” are permissive in nature.

10.1.10. Conjunctions

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

- A.** “And” indicates that all connected items, conditions, provisions or events apply; and
- B.** “Or” indicates that one or more of the connected items, conditions, provisions or events apply.

10.1.11. Tenses and Plurals

Words used in the present tense include the future tense. Words in the future tense include the past tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

10.1.12. Term not Defined

If a term used in this Ordinance is not defined in this Chapter, the Planning Director shall have the authority to provide a definition through the Interpretation procedure (see Section 2. <>, Interpretation) based upon the definitions used in accepted sources, including but not limited to A Planners Dictionary, A Glossary of Zoning, Development, and Planning Terms, and A Survey of Zoning Definitions, published by the American Planning Association.

CHAPTER 10: DEFINITIONS AND MEASUREMENT

SECTION 10.2: TABLE OF ABBREVIATIONS

Subsection 10.1.12: Term not Defined

10.2. TABLE OF ABBREVIATIONS

Table 10.2, Abbreviations, includes the abbreviations and their corresponding terms as used in this Ordinance.

TABLE 10.2: ABBREVIATIONS	
ABBREVIATION	ASSOCIATED TERM
AEC	Area of Environmental Concern
ATF	Department of Alcohol, Tobacco, & Firearms
BFE	Base Flood Elevation
BOA	Board of Adjustment
BOC	Board of Commissioners
CAMA	Coastal Area Management Act
CoBRA	Coastal Barrier Resources Act
CBRS	Coastal Barrier Resources System
FAA	Federal Aviation Administration
FAR	Floor Area Ratio
FCC	Federal Communications Commission
FIRM	Flood Insurance Rate Map
FIS	Flood Insurance Study
FTA	Federal Telecommunications Act of 1996
HOA	Homeowners Association
HUD	Federal Department of Housing and Urban Development
kW	Kilowatt
MW	Megawatt
NC	North Carolina
NCDENR or DENR	North Carolina Department of Environment and Natural Resources
NCDOT or DOT	North Carolina Department of Transportation
NCGS	North Carolina General Statute
NFIP	National Flood Insurance Program
OPA	Otherwise Protected Area
PAS	Private Access Subdivision
PD or PUD	Planned Development
ROW	Right-of-way
SR	Secondary Road in the North Carolina Secondary Road System
TRC	Technical Review Committee
UDO	Unified Development Ordinance
UP	Use Permit
US	United States of America

CHAPTER 10: DEFINITIONS AND MEASUREMENT

SECTION 10.3: RULES OF MEASUREMENT

Subsection 10.1.12: Term not Defined

10.3. RULES OF MEASUREMENT

[placeholder to be completed in Module 2]

10.4. DEFINITIONS

ABANDONMENT (CURRENT)

A nonconforming, use, structure, or sign which has been physically and objectively discontinued, relinquished, or vacated for a consecutive period of 180 or more days without any intention of transferring rights to the property to another owner or lessee or of resuming the use of the property regardless of intent of the owner, lessee, or previous occupant, or any other affiliated parties and regardless of any condition or circumstance beyond the control of such parties that prevent a continuation of the use or occupancy of the structure or property.

ABUTTING

The condition of two adjoining lots having a common property line or boundary including cases where two or more lots adjoin a corner, but not including cases where adjoining lots are separated by a street or alley.

ACCESSORY STRUCTURE (CURRENT)

A structure, which is located on the same parcel of property as the principle structure and the use of which is incidental to the use of the principle structure. Garages, carports and storage sheds are common accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

ACCESSORY USE

A use that is accessory to the principal use in terms of size, intensity, and impact.

ACCESSWAY (CURRENT)

A private drive constructed with a compacted, graded, and drained roadbed with a gravel surface at least three inches deep, for access to lots.

ACT OF GOD

Any event in which the damage to a nonconforming use or structure is outside of the control of a single individual. Damage or destruction by hurricane, flood, earthquake, or lightning are considered acts of God.

ADDITION

Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition that is connected by a fire wall or is separated by an independent perimeter load bearing wall is new construction.

ADJACENT

A lot or parcel of land that shares all or part of a common lot line or boundary with another lot or parcel of land or that is directly across a public street or right-of-way.

ADMINISTRATIVE ADJUSTMENT

A type of flexibility permit approval reviewed and approved or denied by the Planning Director in accordance with Section <>, Administrative Adjustment.

AFFECTED PARTY

Owners of land adjoining the land subject to an application and any other person who could suffer an adverse effect to a property interest from a proposed development.

AGGRIEVED PARTY

Chapter 10: Definitions and Measurement

SECTION 10.4: DEFINITIONS

Appeal

A person, with a legally recognized interest (i.e., fee simple ownership) and standing to appeal, that is injuriously affected by a decision from any decision-making body of the county, including any officer or agent of the county.

APPEAL

An appeal of an administrative decision-maker's interpretation or decision reviewed and approved, approved with conditions, or denied by the Board of Adjustment in accordance with Section <>, Appeal.

APPLICANT

The owner of land, or the authorized representative of the landowner, applying for a development approval or permit.

APPLICATION

The completed form or forms and all accompanying documents, exhibits, and fees required of an applicant by the appropriate county department, or board as part of the development review processes.

AREA OF ENVIRONMENTAL CONCERN (AEC) (CURRENT)

An area designated as such by the N.C. Coastal Resources Commission pursuant to GS 113A-113 of the Coastal Area Management Act.

ASSESSED VALUE

The monetary price that a parcel of land, portion of land, improvement on land, or other commodity assigned by the Currituck County Property Appraiser's office for the purposes of taxation.

AUTHORIZED AGENT

A person with express written consent to act upon another's behalf.

BASE FLOOD (CURRENT)

The flood having a one percent chance of being equaled or exceeded in any given year. Also known as the 100-year flood.

BASE FLOOD ELEVATION (BFE) (CURRENT)

A determination as published in the Flood Insurance Study of the water surface elevations of the base flood. This elevation establishes the "Regulatory Flood Protection Elevation".

BILLBOARD (CURRENT)

An off-premises sign owned by a person, corporation, or other entity that engages in the business of selling the advertising space on that sign.

BOARD OF ADJUSTMENT

A quasi-judicial board appointed by the Board of Commissioners.

BOARD OF COMMISSIONERS

The Board of Commissioners for Currituck County, North Carolina.

BONA FIDE FARM (CURRENT)

Any tract or tracts of land, one of which must contain at least ten acres which meets the following criteria:

- a. On such property an owner or lessee is actively engaged in a substantial way in the commercial production or growing of crops, plants, livestock, or poultry; and,

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SECTION 10.4: DEFINITIONS

Building

- b. Such property has produced or yielded, during each of the three immediately preceding years, a gross income from the above-described commercial production or growing of crops, plants, livestock, or poultry (including payments received under Soil Conservation or Land Retirement Programs, but not land rents paid to a non-resident owner) of at least \$1,000.

BUILDING

See “Structure”.

CAMA (CURRENT)

North Carolina’s Coastal Area Management Act. This act, along with the Dredge and Fill Law and the federal Coastal Zone Management Act, is managed through North Carolina Department of Environment and Natural Resources’ (NCDENR’s) Division of Coastal Management (DCM).

CASUALTY DAMAGE

Damage to a use, lot, or structure from an event that is sudden, unexpected, and unusual, such as a storm, fire, theft, accident, or similar event that causes loss of or damage to property or improvements.

CERTIFICATE OF OCCUPANCY

A type of permit reviewed and approved or denied by the Inspections Director that allows occupancy of a habitable structure.

CHANGE OF USE

The change in the use of a structure or land, for which a certificate of occupancy is required. Change of use shall include a change from one use to another use in the list(s) of permitted uses, and shall also include a change from one use to another use within any broad category of uses, such as from one use listed in the commercial use category to another use listed in the commercial use category, as herein defined.

CITATION

As used in Chapter 9: Enforcement, a formal notice to a person that he or she is charged with a violation of this Ordinance, and that penalty is due.

CLEAR-CUTTING PERMIT

A type of permit related to removal of existing trees reviewed and approved or denied by the Planning Director in accordance with Section <>, Clear-Cutting Permit.

COASTAL BARRIER RESOURCES SYSTEM (CBRS) (CURRENT)

Undeveloped portions of coastal and adjoining areas established by the Coastal Barrier Resources Act (CoBRA) of 1982, the Coastal Barrier Improvement Act (CBIA) of 1990, and subsequent revisions, and includes areas owned by federal or state governments or private conservation organizations identified as Otherwise Protected Areas (OPA).

COASTAL HIGH HAZARD AREA (CURRENT)

The area subject to high velocity waters caused by, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zone VI-3, VE or V. Also, a Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in this ordinance, as Zones VE or VI-30.

CODE OF ORDINANCES

Chapter 10: Definitions and Measurement

SECTION 10.4: DEFINITIONS

Community Meeting

The county Code of Ordinances for Currituck County, North Carolina.

COMMUNITY MEETING

A meeting conducted by an applicant on a proposed development before an application for the development permit or approval is submitted to the county.

CONCEPTUAL DEVELOPMENT PLAN

A conceptual drawing or plan depicting the proposed development configuration proposed by an applicant as part of a conditional rezoning application

CONDITIONAL REZONING

A type of zoning map amendment reviewed and approved or denied by the Board of Commissioners in accordance with Section <>, Conditional Rezoning.

CONDITIONAL ZONING DISTRICT CLASSIFICATION

The classification of land on the Official Zoning Map subject to conditions of approval in accordance with Section <>, Conditional Rezoning.

CONDOMINIUM

A development containing individually owned dwelling units and jointly owned and shared areas and facilities that is subject to the North Carolina Unit Ownership Act (North Carolina General Statutes Section Ch. 47A) and/or the North Carolina Condominium Act (North Carolina General Statutes Section Ch. 47C).

CONSTRUCTION DRAWINGS

Technical plans, maps, and engineered drawing depicting public infrastructure, streets, drainage, open space, and lots proposed as part of a major subdivision preliminary plat.

CONTIGUOUS

Abutting directly or immediately adjacent to a boundary or separated only by a street, railroad or public utility right-of-way.

COUNTY

Currituck County, North Carolina.

DEVELOPER

The legal or beneficial owner or owners of a lot or of any land included in a proposed development, including the holder of an option or contract to purchase or other persons having enforceable proprietary interests in such land.

DEVELOPMENT

The initiation, construction, change, or enlargement of any use or structure, the disturbance of land through the removal of trees or ground cover, or the division of land into two or more parcels. "Development" shall include, but not be limited to, the following:

- Construction or enlargement of a building or structure;
- Change in the type of use of a building, structure, or land;
- Material increase in the intensity of use of land, such as an increase in the number of businesses, offices, manufacturing establishments, or dwelling units located in a building or structure or on the land;
- Commencement or expansion of resource extraction, agricultural, horticultural, or forestry activities on a parcel of land;
- Demolition of a structure or the removal of trees from a parcel of land;

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SECTION 10.4: DEFINITIONS

Development Agreement

- Deposition of refuse, solid or liquid waste, or fill on a parcel of land;
- Alteration, either physically or chemically, of the shore, bank, or channel of any stream, lake, or other body of water or alteration of any wetland; and
- Any land disturbing activity that adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

DEVELOPMENT AGREEMENT

An agreement entered into between the county and a landowner in accordance with Section <>, Development Agreement.

DEVELOPMENT REVIEW PROCESS MANUAL

A manual containing details on the mechanics of the development review process, information for potential applicants, and development review application forms.

DISTRICT

An area delineated on the Official Zoning Map which sets forth standards and guidelines for all development within the prescribed district.

DISTRICT, OVERLAY

A zoning district that encompasses one or more underlying zoning district and that imposes additional requirements above that required by the underlying zoning district.

DRAINAGE

General terms applied to the removal of surface or resurface water from a given area either by gravity via natural means or by systems constructed so as to remove water, and is commonly applied herein to surface water.

ENCROACHMENT (CURRENT)

The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

ENGINEERING DIRECTOR

The Director of Engineering for Currituck County, North Carolina, or a designee.

EXISTING DEVELOPMENT

Structures, buildings, site specific plan or other projects that are completely built or that at a minimum have established a vested right as of the effective date of this Ordinance based on at least one of the following being satisfactorily proven to the Planning Department for the specific development in question:

Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the development, or

Having an outstanding valid building permit as authorized by North Carolina General Statutes Section 153A-344.1, or

Having an approved site specific or phased development plan as authorized by North Carolina General Statutes Sections 153A-344.1.

EXISTING LOT (LOT OF RECORD)

A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds after August 2, 1965, or a lot described by metes and bounds, the description of which has been so recorded.

EXPANSION

An increase in the size of an existing structure or use, including physical size of the property, building, parking, and other improvements or structures.

FAMILY

An individual, or two or more persons related by blood, marriage, or adoption living together as a single housekeeping unit; or a group of not more than five persons not related by blood, marriage, or adoption living together as a single housekeeping unit, as in a group home.

FLOOD INSURANCE RATE MAP (FIRM) (CURRENT)

An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FILL (CURRENT)

Any material placed or graded on a lot where the material has the effect of increasing the elevation of any portion of the lot.

FLOODPLAIN DEVELOPMENT PERMIT

A type of development permit for development within a special flood hazard area reviewed and approved or denied by the Planning Director in accordance with Section 10.4.2, Floodplain Development Permit.

FLOODPLAIN OR FLOOD PRONE AREA (CURRENT)

Any land area susceptible to being inundated by water from the base flood. The term refers to that area designated as subject to flooding from the base flood (One Hundred Year Flood) on the "Flood Insurance Rate Map" prepared by the Federal Emergency Management Agency and dated November 4, 1992, and also November 2, 1992, as revised, a copy of which is on file in the administrator's office. This area shall comprise the Floodplain Overlay Zoning District established in this ordinance.

FLOODWAY

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

FREEBOARD (CURRENT)

The height added to the Base Flood Elevation (BFE) to account for watershed development as well as limitations of the engineering methodologies for the determination of flood elevations. The freeboard plus the Base Flood Elevation establishes the "Regulatory Flood Protection Elevation".

HOMEOWNERS ASSOCIATION (HOA)

An organization of homeowners or property owners of lots or land in a particular subdivision, condominium, or planned development. The home owners association is responsible for maintaining and enhancing the shared public and private infrastructure (e.g., streets and sidewalks) and common space like recreation features.

IMPERVIOUS SURFACE

A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to: non-vegetated roofs, structures, streets, parking areas, sidewalks, driveways, and any concrete, asphalt, or compacted gravel surface.

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Inspections Director

INSPECTIONS DIRECTOR

The Director of Inspections for Currituck County, North Carolina, or a designee.

INTERPRETATION

An interpretation of this Ordinance, the Official Zoning Map, or conditions of approval made in writing by the Planning Director or designee in accordance with the standards in Section <>, Interpretation.

LAND

The earth, water, and air, above, below, or on the surface, and includes any improvements or structures customarily regarded as land.

LAND DISTURBING ACTIVITY

Any movement of earth or substrate, manually or mechanically, including but not limited to any modification of existing grade by dredging, demolition, excavation or fill, grading, scraping, vegetation removal, landscaping, coring, well drilling, pile driving, undergrounding utility lines, trenching, bulldozing, sheeting, shoring and excavation for laying or removing foundations, pilings or other purposes.

LAND USE PLAN, 2006

The land use plan for Currituck County approved by the North Carolina Division Coastal Management and the adopted by the Board of Commissioners.

LANDOWNER

Any owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and agent or personal representative of the owner. The person shown on the records of the register of deeds of the county shall be presumed to be the person in control of the property.

LOT

A parcel of land or any combination of several parcels of land occupied or intended to be occupied by a principal use or structure, together with any accessory structures or uses and such accessways, parking area, yards, and open spaces required in these regulations.

LOT, EXISTING

See "Existing Lot (Lot of Record)"

LOWEST FLOOR

The lowest floor of the lowest enclosed area (including basement) of a habitable structure. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor.

MAINLAND

The portion of Currituck County connected to the mainland. For the purposes of this Ordinance, Knotts Island and Gibbs Woods are considered part of the mainland.

MANUFACTURED HOME (CURRENT)

A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MAP AMENDMENT

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Maritime Forest

A type of zoning district change reviewed and approved, or denied by the Board of Commissioners in accordance with Section 10.4.1, Map Amendment.

MARITIME FOREST

Forested areas along the coast that are subject to salt spray or periodic inundation by salt water.

MAXIMUM EXTENT PRACTICABLE

No feasible or practical alternative exists, as determined by the county, and all possible efforts to comply with the standards or regulation to minimize potential harmful or adverse impacts have been undertaken by an applicant. Economic considerations may be taken into account but shall not be the overriding factor determining “maximum extent practicable.”

MEAN SEA LEVEL

The National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced.

MOBILE HOME, CLASS A (CURRENT)

A mobile home constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies each of the following additional criteria:

- a. the home has a length not exceeding three times its width;
- b. the pitch of the home's roof has a minimum vertical rise of one foot for each five feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction;
- c. the exterior siding consists of wood, hardboard, or aluminum (vinyl covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;
- d. a continuous, permanent masonry curtain wall, unpierced except for required ventilation and access, is installed under the home after placement on the lot and before occupancy; and,
- e. the tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.

MOBILE HOME, CLASS B (CURRENT)

A mobile home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction but that does not satisfy the criteria necessary to qualify the house as a class A mobile home.

MOBILE HOME, CLASS C (CURRENT)

Any mobile home that does not meet the definitional criteria of a class A or class B mobile home. Class C mobile homes are mobile homes constructed prior to July 1, 1976, and may not be relocated within any zoning district, but may be relocated to an established mobile home park or mobile home subdivision within Currituck County. Class C mobile homes are further defined as including only those mobile homes located within the boundaries of Currituck County as of June 5, 1989. No Class C mobile home from an area outside Currituck County shall be permitted in Currituck County after this date.

NONCONFORMING LOT

A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of this Ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

NONCONFORMING SIGN

Any sign lawfully existing on the effective date of this Ordinance, or amendment thereto, that renders such sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended ordinance.

NONCONFORMING SITE FEATURE

Any site feature or attribute, including but not limited to off-street parking, landscaping, screening of mechanical equipment, or walls and fences that was lawful at the time of development that does not conform to all the standards and regulations of this Ordinance.

NONCONFORMING STRUCTURE

A structure or building, the size, dimensions, or location of which was lawful prior to the adoption, revision, or amendment to this Ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

NONCONFORMING USE

Any actual and active use lawfully being made of any land, building, sign or structure not otherwise abandoned, which exists on the effective date of this Ordinance or on the effective date of any amendment thereto, and renders such existing use illegal within a district, or which does not comply in any fashion with any of the regulations of this Ordinance or any amendments thereto. If the property or structure is vacant or unused on the effective date of this Ordinance or any amendment thereto, it shall be conclusively presumed that the property or structure is subject to the provisions of this Ordinance or any amendments thereto. A use or activity that was lawful prior to the adoption, revision or amendment of the zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district.

NONCONFORMITY

A nonconforming use, structure, lot of record, sign, or site feature.

NORTH CAROLINA COMMERCIAL BUILDING CODE

A set of standards and regulations established by the North Carolina Building Council that control building design, construction, and materials used in commercial or nonresidential construction.

NORTH CAROLINA GENERAL STATUTES

The laws created by the State of North Carolina legislature and to which Currituck County is required to uphold.

NOTICE OF APPEAL

The document and justification for an appeal of a decision or interpretation made by a county staff member.

NOTICE OF VIOLATION

A notice indicating an infraction of this Ordinance; not associated with a fine.

OFFICIAL ZONING MAP

See “Zoning Map”.

OFF-PREMISE SIGN

See “Sign, Off-premise”.

OPEN SPACE

Space suitable for passive recreation, gardens or landscaping which may include areas left in their natural state, trails, ponds, stream banks, recreation areas, areas of excessive slopes, low-lying areas, marshland, environmentally-sensitive areas, and required landscaping areas. Such space must be free of automobile traffic and parking, and be readily accessible to all those for whom it is required.

ORDINANCE

A document of regulations enforceable as municipal law.

OUTER BANKS

The portion of the county located on coastal barrier island.

OVERLAY DISTRICT

A zoning district that includes supplementary or replacement regulations to the requirements of the underlying, base zoning district.

OUTDOOR STORAGE (CURRENT)

An area for the storage of goods that have a large size, mass, or volume and are not easily moved or carried without the use of a mechanical lifting device. This includes but is not limited to items such as lumber, large stacks of outdoor furniture, mulch, fertilizer, equipment, and other similar uses.

OWNER (CURRENT)

The person firm or organization in whom is vested the ownership, dominion or title of property. The person firm or organization who is recognized and held responsible by the law as the owner of property.

PARCEL

Any quantity of land and/or water capable of being described in definitive terms with respect to its location and boundaries. It may be established as distinct from other parcels which are designated by its owner or developer as land to be used or developed as a unit, or which has been used or developed as a unit.

PERFORMANCE GUARANTEE

Cash or other guarantee provided by an applicant in-lieu of completion of public infrastructure or installation of required private site features prior to issuance of a building permit or other development approval.

PERSON

For the purposes of enforcing this Ordinance in accordance with Chapter 9: Enforcement, “person” includes any individual, corporation, government agency, government official, business trust, partnership, two or more persons having a joint interest, or any other legal entity. Persons subject to the remedies and penalties established in Chapter 9: Enforcement, for violating this Ordinance shall include: an architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this Ordinance; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the land on which the violation occurs.

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Pervious Surface

For all other purposes, “person” means any individual, corporation, government agency, business trust, partnership, two or more persons having a joint interest, or any other legal entity.

PERVIOUS SURFACE

A surface that absorbs water.

PLANNED DEVELOPMENT

When used to describe a type of development, a tract of land that is planned and developed as an integral unit in accordance with a master plan and flexible development standards that illustrate and address land uses, circulation, utilities, parking, setbacks, housing densities, land coverage, landscaping and buffers, open space, and similar features of the project.

When used as a process, terms describe type of zoning district change procedure reviewed and approved or denied by the Board of Commissioners in accordance with Section <>, Planned Development.

PLANNED UNIT DEVELOPMENT

A master-planned development under unified control that allows a variety of different use types and development configurations reviewed and approved by the county under previous versions of the unified development ordinance.

PLANNED UNIT DEVELOPMENT OVERLAY

The overlay zoning district used to designate areas where planned unit development is permitted.

PLANNING BOARD

The Currituck County Planning Board, established by ordinance in accordance with the North Carolina General Statutes.

PLANNING DIRECTOR

The Planning Director of Currituck County or a designee.

POST-FIRM

Construction or development that commenced after the effective date of the initial flood insurance rate map.

PRE-FIRM

Construction or development that commenced prior to the effective date of the initial flood insurance rate map.

PRESENT USE VALUE

A designation used by the Currituck County Property Appraiser to identify land which is being used for agricultural purposes.

PROPERTY OWNERS ASSOCIATION

See “Homeowners Association (HOA)”.

PUBLIC HEARING, LEGISLATIVE

A meeting open to the public advertised in advance in the local printed media, or as otherwise required by statute, concerning proposed ordinances, amendments or other official county business which require public participation and input.

PUBLIC HEARING, QUASI-JUDICIAL

A formal public hearing involving the legal rights of specific parties conducted by the Board of Commissioners or the Board of Adjustment based on evidence and sworn testimony

presented during the public hearing. Decisions made during such hearings are based upon and supported by the record developed at the hearing, and typically involve findings of fact made by the decision-making body.

PUBLIC INFRASTRUCTURE

Aspects of the public realm owned and maintained by the county or the state that serve the public at large, including streets, highways, sidewalks, curb and gutter, potable water distribution systems, sanitary sewer systems, stormwater drainage retention and conveyance features, street lights, on-street parking spaces, and similar aspects located within a public right-of-way or public easement.

QUORUM

The minimum number of board members that must be present in order to conduct official business or take official action.

REDEVELOPMENT

Any proposed expansion, addition, reduction, or other alteration to an existing building, structure, or other constructed feature on a lot or site. Redevelopment also includes changes in use to existing buildings, as well as modifications to site features such as parking, signage, landscaping, grading, stormwater management devices, or changes to outdoor storage.

REFERENCE LEVEL

The top of the lowest floor for structures within the special flood hazard area in the A and AE flood zones, and the bottom of the lowest horizontal structural member of the lowest floor of structures in the VE flood zone.

REGISTERED ENGINEER

A person who, by reason of special knowledge and use of the mathematical, physical and engineering sciences and the principles and methods of engineering analysis and design, has acquired by engineering education and subsequently licensed as a professional engineer by the Board established in Chapter 89C of the North Carolina General Statutes.

RIGHT OF WAY (CURRENT)

An area of land not on a lot (or part of a minimum lot area) that is dedicated for public or private use to accommodate a transportation system and necessary public or private utility infrastructure (including but not limited to roads, water lines, sewer lines, power lines, and gas lines.) In no case shall a right-of-way be construed to mean an easement. For a subdivision subject to county review, the area of land shall be owned fee-simple and of a sufficient width to meet the requirements of this Ordinance.

SIGN PERMIT

A type of permit approval related to signage reviewed and approved or denied by the Planning Director in accordance with Section <>, Sign Permit.

SIGN, NONCONFORMING (CURRENT)

Any sign that does not meet one or more of the requirements of this Ordinance as of the effective date of this Ordinance.

SIGN, OFF PREMISE

A sign or structure, pictorial or otherwise, regardless of size or shape that draws attention to or communicates information about a business, profession, service, commodity, product, accommodation, event, attraction or other enterprise or activity that exists or is conducted, manufactured, sold, offered, maintained or provided at a location other than on the premises where the sign is located. Several types of off-premises signs may exist or otherwise be subject

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Sign, On Premise

to the requirements of this article. Billboards are examples of off-premises signs. This definition does not include governmental, traffic, directional, or regulatory signs or notices of the Federal, State, County or City government or their public agencies.

SIGN, ON PREMISE

A sign or structure, pictorial or otherwise, regardless of size or shape that draws attention to or communicates information about a business, profession, service, commodity, product, accommodation, event, attraction or other enterprise or activity that exists or is conducted, manufactured, sold, offered, maintained or provided on the premises or at the same location (site or tract) as that where the sign is located. Several types of on-premises signs may exist or otherwise be subject to the requirements of this article regarding such signs. Ground signs and directional signs are examples of on-premises signs.

SITE PLAN, MAJOR

A type of site approval reviewed and approved or denied by the Technical Review Committee, in accordance with Section <>, Major Site Plan.

SITE PLAN, MINOR

A type of site approval reviewed and approved or denied by the Planning Director, in accordance with Section <>, Minor Site Plan.

SITE-SPECIFIC SITE PLAN (VESTING PLAN)

A diagram to scale showing the development plans for a project and containing all information required of a commercial site plan, use permit, or preliminary plat.

SPECIAL EVENT

A planned, temporary activity required subject to review and approval of a temporary use permit by the county.

SPECIAL FLOOD HAZARD AREA

The land in the floodplain (including the floodway and the non-encroachment area) subject to a one percent or greater chance of flooding in any given year.

STATE

The state of North Carolina.

STORMWATER MANAGEMENT MANUAL

The Stormwater Management Manual for Currituck County adopted by the Board of Commissioners.

STREET, PRIVATE (CURRENT)

A street other than a public street.

STREET, PUBLIC (CURRENT)

A public right-of-way for vehicular travel which has been designed, constructed and dedicated to and accepted by the North Carolina Department of Transportation (DOT) for public use or which has been otherwise obtained by DOT for such use or which is proposed to be constructed and then dedicated to and accepted by DOT as a public right-of-way for vehicular traffic for public use pursuant to this ordinance.

STRUCTURE

Anything constructed, installed, or portable, the use of which requires a location on a parcel of land. This includes a fixed or movable building which can be used for residential, business, commercial, agricultural, or office purposes, either temporarily or permanently. "Structure"

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Subdivider

also includes, but is not limited to, swimming pools, tennis courts, signs, cisterns, sewage treatment plants, sheds, docks, mooring areas, and similar accessory construction.

SUBDIVIDER

Any person, firm, or corporation who subdivides or develops any land deemed to be a subdivision as herein described.

SUBDIVISION, FAMILY

A subdivision where single-family lots may only be conveyed to family members and the division of lots may occur at a rate not greater than one lot per year up to a maximum of five lots.

SUBDIVISION FINAL PLAT

A type of subdivision approval reviewed and approved or denied by the Planning Director in accordance with Section <>, Final Plat.

SUBDIVISION, MAJOR (CURRENT)

A subdivision that includes public or private streets, creates six or more lots, or both, and is subject to the improvement standards in this Ordinance.

SUBDIVISION, MINOR (CURRENT)

A subdivision that does not involve any of the following:

- a. the creation of more than a total of five lots; or
- b. the creation of any new public or private streets.

SUBDIVISION, NO-REVIEW

A subdivision of land that involves:

- a. Creation of lots that are ten acres or more in size each;
- b. A single parcel of two acres or smaller in size into three or fewer lots, with no public or private streets;
- c. Public acquisition of land for right-of-way; or
- d. Shifting or recombination of lot lines where no new lots are created.

SUBDIVISION PRELIMINARY PLAT

A type of subdivision approval reviewed and approved or denied by the Board of Commissioners in accordance with Section <>, Preliminary Plat, and Section <>, Use Permit.

SUBSTANTIAL IMPROVEMENT

Any repair, reconstruction, expansion, or improvement of a structure, the cost of which exceeds 50 percent of the assessed value of a structure as determined either before the expansion or improvement begins or before the damage occurred giving rise to the repair or reconstruction. Substantial improvement shall not include, however any repair or improvement required bringing the structure into compliance with existing state or county health, sanitary, safety, or building Ordinance specifications necessary to ensure safe habitation of the structure.

TECHNICAL REVIEW COMMITTEE

A group of county staff and governmental agencies who review and approve site plans, sketch plans, and construction drawings for subdivisions.

TEMPORARY USE PERMIT

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Text Amendment

A permit authorizing the operation of a temporary use or special event approved, approved with conditions, or denied by the Planning Director in accordance with Section <>, Temporary Use Permit.

TEXT AMENDMENT

An amendment to the language of this Ordinance approved, approved with conditions, or denied by the Board of Commissioners in accordance with Section <>, Text Amendment.

TRACT (CURRENT)

A unit of land typically subdivided into a series of smaller lots.

UNIFIED DEVELOPMENT ORDINANCE

This Ordinance, (also know as the Currituck County Unified Development Ordinance) the officially adopted zoning ordinance of the County of Currituck, North Carolina.

USE

The purpose for which land or a structure is arranged, designed or intended, or for which either land or a structure is or may be occupied or maintained.

USE PERMIT

A permit for construction reviewed and approved, approved with conditions, or denied by the Board of Commissioners in accordance with Section <>, Use Permit.

VARIANCE

A development application reviewed and approved, approved with conditions, or denied by the Board of Adjustment in accordance with Section <>, Variance.

VESTED RIGHT

The right to undertake and complete a development or use of property under the terms and conditions of an approved Site-Specific Development Plan currently in effect or as otherwise allowed by law.

WATERCOURSE (CURRENT)

A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

YIELD PLAN (CURRENT)

The maximum number of lots that may be created from single or recombined parcels based on the underlying zoning district(s) and after all CAMA Wetlands, Adjacent 404 Wetlands and all streets (ten percent or more of the total tract) have been removed.

ZONING COMPLIANCE PERMIT

A permit reviewed and approved, approved with conditions, or denied by the Planning Director in accordance with Section <>, Zoning Compliance Permit.

ZONING DISTRICT

A geographic area of land designated on the Official Zoning Map and subject to uniform land use regulations related to uses, density, or other similar attributes.

ZONING MAP

The Official Zoning Map upon which the boundaries of various zoning districts are drawn and which is an integral part of this Ordinance.

ZONING ORDINANCE

See “Unified Development Ordinance”.