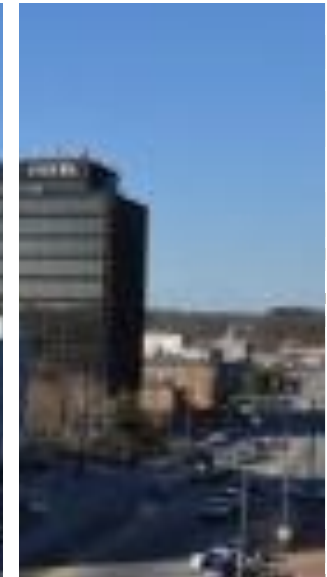
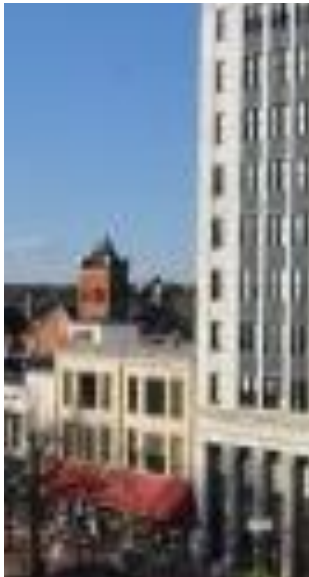
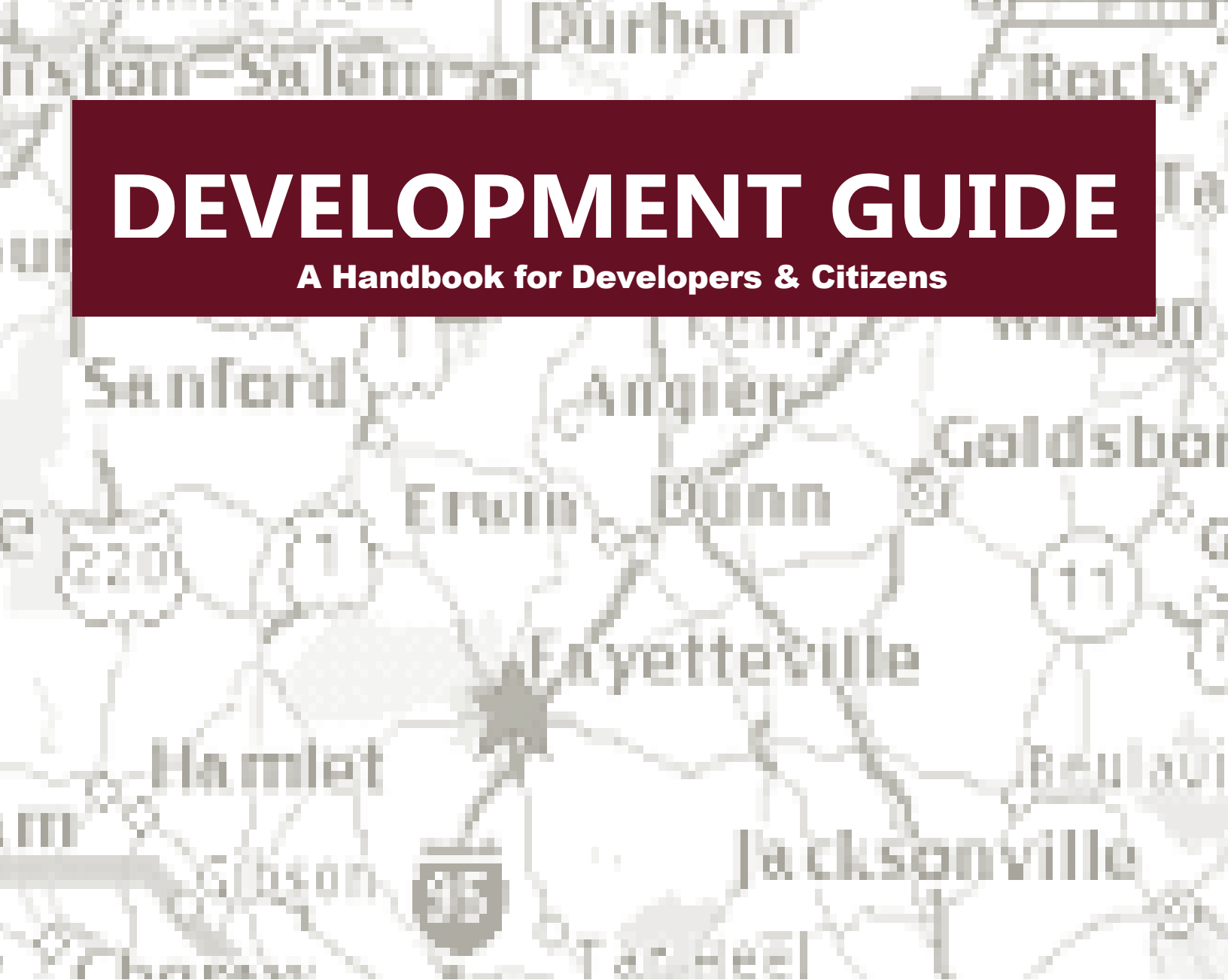


DEVELOPMENT GUIDE

A Handbook for Developers & Citizens



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PART 1: PURPOSE & INTRODUCTION

The Fayetteville Development Guide is intended to assist in the day-to-day understanding, use and administration of the Unified Development Ordinance (UDO). The guide's primary objective is to explain the review procedures for development applications in the UDO and the City Code of Ordinances. The informational manual also provides practical advice about complying with City development standards and review procedures. Finally, to ease the application process, this manual also provides information about City Council, City boards and commissions, and City staff (including contact information), as well as application forms and fee schedules.

This directory is a supplement to the City's development requirements, not a substitute. Please consult the appropriate Code provisions prior to and during the development review process.

Copies of the UDO and the City's Code of Ordinances are on file for public inspection or purchase during business hours at the offices of the Planning and Zoning Division on the first floor of City Hall at 433 Hay Street in downtown Fayetteville.

The digital version of this manual is designed for viewing with Adobe Reader, Adobe Acrobat, or other similar "pdf" (portable document format) viewers. Text shown in [blue underline](#) depicts a link to another website. Text shown in [red underline](#) depicts a dynamic link to another section in this manual, allowing a user to quickly navigate to the linked section. The table of contents is also dynamically linked. Users who have Adobe Reader can navigate within the manual using the dynamically-linked bookmark view. A free version of Adobe Reader software and information on navigating with bookmarks may be found at www.adobe.com/products/reader/.

Citizens interested in learning more about the development review process, the UDO, or other planning-related topics should contact the Planning and Zoning Division at 910-433-1612. Additional information (including this manual), is also available on the Planning and Zoning Division webpage at <http://fayettevillenc.gov/government/city-departments/planning-code-enforcement/planning-zoning>.

PART 2: THE UNIFIED DEVELOPMENT ORDINANCE

The Unified Development Ordinance (UDO) consists of zoning and subdivision regulations, along with development standards governing landscaping and tree protection, open space dedication, buffering requirements, the sign code, and residential and commercial façade treatment standards. Although the UDO does contain some technical design standards, such as parking lot design requirements, for the most part, technical design standards for buildings and site infrastructure are separately addressed in other documents that include the North Carolina State Building Code, the North Carolina State Fire Code, City technical standards relating to the design of streets and stormwater management facilities, and design standards of utility providers operating in the City, including the Fayetteville Public Works Commission. Links to some of these technical standards are provided below.

Building Permits:

<http://fayettevillenc.gov/business-and-development/permits-applications-and-requests/permits>

Engineering - Standard Details for Drainage, Erosion Control, and Street Design:

<http://fayettevillenc.gov/government/city-departments/engineering-infrastructure/standard-details>

<http://fayettevillenc.gov/government/city-departments/engineering-infrastructure/engineering-division>

Fire Prevention, Code Enforcement, Fire Inspections:

<http://fayettevillenc.gov/government/city-departments/fire-emergency-management/fire-prevention>

NC State Building Code:

http://www.ncdoi.com/OSFM/Engineering_and_Codes/Default.aspx?field1=State_Building_Codes_USER&user=State_Building_Codes

Plans, Landscaping, Historic Resources and Tree Protection and more:

<http://fayettevillenc.gov/government/city-departments/planning-code-enforcement/planning-zoning>

Utilities (PWC), Design Standards, Development Incentives, and more:

<http://www.faypwc.com/>

In addition to establishing zoning, subdivision, and development regulations, the UDO sets forth a variety of procedures for implementation or modification of these regulations, such as building permits, subdivision plats, site plans, zoning map amendments, etc. This manual is intended to be a practical guide to how these procedures work. Consequently, a considerable amount of space in this manual is devoted to these individual procedures.

A. ZONING REGULATIONS

Purpose of Zoning Regulations. Zoning regulations establish the type and intensity of land uses allowed in various areas of the City. The intent behind zoning regulations is to enhance compatibility between various land uses and to match land uses with the public and private infrastructure necessary to support those uses. For instance, heavy industrial uses are usually located away from homes and neighborhoods to keep noise and odors associated with industrial operations from creating problems for residents. Likewise, large commercial facilities are generally located on major roadways in order to accommodate the heavy traffic that these facilities generate.

Zoning Map and Zoning Districts. The official City of Fayetteville **Zoning Map** divides the City into districts of various types, ranging from the Conservation District which allows only limited development in order to protect environmentally sensitive lands to the Heavy Industrial district which allows very intensive manufacturing and distribution type uses. The City of Fayetteville has three special base zoning districts, five residential base zoning districts, nine business base zoning districts, three planned development districts, and 11 overlay zoning districts. Additionally, any base zoning district may be considered as a conditional zoning district that allows additional conditions to be applied to development within such districts regarding uses, intensity of development, and dimensional requirements to promote particular types of development or to encourage compatibility with surrounding uses. Except for conditional zoning districts, each district is described briefly below.

Zoning District Name	Abbreviation	Description
Special Base Zoning Districts		
Conservation District	CD	Preserves and protects identifiable natural resources from urban encroachment. Discourages development that creates risk for loss of life or property from normal or natural processes and events in natural hazard areas like floodplains.
Agricultural – Residential District	AR	Accommodates rural uses, including agricultural uses and agriculturally-supportive uses, as well as low-density residential uses.
Military/Airport District	MA	Identifies those lands within the City containing military installations and the Fayetteville Regional Airport.
Residential Base Zoning Districts		
Single-Family Residential 15 District	SF-15	Accommodates single-family detached residential development at low densities (15,000 square-foot minimum lot size), as well as small-scale multi-family dwellings. Also allowed are complementary uses such as parks, open space, schools, and places of worship.
Single-Family Residential 10 District	SF-10	Accommodates single-family detached residential development at low densities (10,000 square-foot minimum lot size), as well as small-scale multi-family dwellings. Also allowed are complementary uses such as parks, open space, schools, and places of worship.

Single-Family Residential 6 District	SF-6	Accommodates single-family detached residential development at moderate densities (6,000 square-foot minimum lot size), as well as small-scale multi-family dwellings. Larger scale multi-family developments are allowed with special use permits. Also allowed are complementary uses such as parks, open space, schools, and places of worship.
Mixed Residential 5 District	MR-5	Accommodates a wide variety of residential housing types at moderate to high densities. Also allowed are complementary institutional uses (places of worship, post offices, police substations), day care facilities, and limited small-scale neighborhood oriented convenience retail uses.
Manufactured Home District	MH	Accommodates manufactured home parks.
Business Base Zoning Districts		
Office & Institutional District	OI	Accommodates a mix of small-scale, low-intensity professional business offices installations, along with limited service uses and low to moderate density residential uses.
Neighborhood Commercial District	NC	Accommodates small-scale low-intensity “convenience” type retail and service uses to serve the needs of the immediately surrounding neighborhoods. Residential uses are encouraged on the upper floors of nonresidential establishments.
Limited Commercial District	LC	Accommodates a range of moderate-intensity general retail, business and service uses that serve groups of neighborhoods, such as grocery stores, drugstores, large restaurants, gas stations and specialty retail stores. Residential uses are encouraged on the upper floors of nonresidential establishments.
Community Commercial District	CC	Accommodates a diverse range of medium to high intensity retail, service and office uses that serve the general community and region. Higher density residential uses are encouraged on the upper floors of nonresidential establishments or exist as stand-alone buildings.
Mixed-Use District	MU	Promotes the coordinated development of a compatible and balanced mix of mutually supporting, living, working, shopping, educating, entertaining and recreating uses.
Downtown District	DT	Promotes the urban form and architectural character found in traditional downtown areas in a diverse mixed-use urban center environment.

Light Industrial District	LI	Accommodates light manufacturing, assembly, fabrication, processing, distribution, storage, research and development, and other industrial uses that are small-scale in nature and have minimal adverse environmental and visual impacts.
Heavy Industrial District	HI	Accommodates heavy manufacturing, assembly, fabrication, processing, distribution, storage, research and development, and other industrial uses that are large-scale in nature and may have the potential for adverse environmental and visual impacts.
Business Park District	BP	Provides for large-scale “campus” type development containing “core” uses that include light and heavy industrial, research and development, corporate headquarters, office-warehouse, assembly, business incubation, and vocational and training school uses, along with supportive uses that include general office, visitor accommodation, restaurant and retail uses.
Planned Development Zoning Districts		
Planned Development – Residential District	PD-R	Encourages the use of innovative and creative site and building design to provide a mix of different residential uses in close proximity to one another.
Planned Development –Employment Center District	PD-EC	Encourages the development of a mix of employment generating uses such as offices, research, light industrial, and limited commercial uses, and may include high-density residential uses in appropriate locations.
Planned Development – Traditional Neighborhood District	PD-TN	Provides an opportunity to develop mixed-use, traditional neighborhoods as an alternative to conventional suburban residential development.
Overlay Zoning Districts		
Hospital Area Overlay District	HAO	Provides for compatible quality development in the vicinity of the Cape Fear Valley Hospital by lessening conflicts between residential and nonresidential land uses.
Historic/Landmark Overlay District	HLO	Protects and promotes the historic heritage of the city by maintaining and enhancing historic and architecturally valuable structures, properties, districts and neighborhoods.
Manufactured Home Overlay District	MHO	Accommodates the placement of manufactured homes in the city in accordance with City-adopted plans and local housing needs.
Noise – Accident Potential Overlay District	NPO	Intends to reduce the concentration of people exposed to high noise levels and aircraft accidents associated with airports and military installations.

Airport Overlay District	APO	Protects the public by minimizing exposure to and giving public notice of probable high noise levels and accident hazards generated by airport operations at the Fayetteville Regional Airport
Special Highway Overlay District	SHO	To be determined.
Murchison Road Corridor Overlay District	MCO	To be determined.
Neighborhood Conservation Overlay District	NCO	Protects and preserves unique design features and character of established neighborhoods throughout the City by promoting new construction that is compatible with existing neighborhood character.
Cape Fear River Overlay District	CFO	To be determined.
Coliseum Tourism Overlay	CTO	Establishes and maintains the Coliseum as a contemporary, vibrant retail area that is harmonious with its events.
Regional Activity Center	RACO	Supports areas that demonstrate a common, economically significant contribution to the community, focusing on compatibility between existing and future uses in type, scale, and character and by promoting compatibility with nearby uses.
Suburban Activity Center	SACO	Facilitates infill development and redevelopment in key areas along arterial road corridors to create or reinforce centers of primarily mixed-use activity.
Conditional Zoning	/CZ	Allows an applicant to submit a request to amend the zoning district designation of land on the Zoning Map, subject to a set of additional voluntary limitations or conditions.

Types of Uses. Permitted uses are land uses which are allowed by right in a particular zoning district. **Special uses** are uses which are allowed only after a public hearing process is followed. **Prohibited uses** are not allowed in the zoning districts in which they are not listed. Section 30-4.B provides a description and examples of the uses typical of each use category; this section is used to help identify where a new or unlisted use should be placed.

The **Use Table** (<http://online.encodeplus.com/regs/fayetteville-nc/doc-viewer.aspx#secid-11250>) serves as a quick reference as to which uses are permitted, which are special uses, and which are prohibited uses. Some permitted uses have special requirements; the **Use Table** includes section references which allow the reader to determine what these special requirements are.

Principal and Accessory Uses. The land uses described in the **Use Table** are principal uses, or, in other words, the dominant land use on a parcel of property. Accessory uses are subordinate land uses that support principal uses. For example, on a lot in a single family residential zoning district, a house would be the principal use, while a backyard storage shed would be an accessory use. Section 30-4.D of the

UDO (<http://online.encodeplus.com/regs/fayetteville-nc/doc-viewer.aspx#secid-10435>) provides a list of accessory uses and the standards which apply to them.

B. SUBDIVISION REGULATIONS

Purpose of Subdivision Regulations. Subdivision regulations govern how property may be subdivided for the purpose of sale or development. It is important to ensure that newly created lots have adequate access to streets, stormwater facilities, and utility services, that such streets, stormwater facilities, and utility services are designed to appropriate minimum standards, and to establish public and private maintenance requirements and expectations for streets, stormwater facilities, and utility services.

Subdivision regulations for the City of Fayetteville may be found in Section 30-6 of the UDO (<http://online.encodeplus.com/regs/fayetteville-nc/doc-viewer.aspx#secid-10572>).

C. DEVELOPMENT STANDARDS

The UDO contains a variety of development standards, including those described below.

- **Off-Street Parking, Loading and Circulation Standards.** These standards address the minimum number of required off-street parking spaces for various uses, parking space size and aisle width standards, stacking and loading standards, bicycle parking requirements, and provision for alternative parking plans to allow flexibility in addressing parking situations in unusual circumstances. These standards may be found in Section 30-5.A of the UDO: <http://online.encodeplus.com/regs/fayetteville-nc/doc-viewer.aspx#secid-10449>.
- **Landscaping and Tree Protection Standards.** These standards address landscaping required as part of site development, including street tree, site and building landscaping, vehicular use area landscaping, property perimeter landscaping, and screening. Additionally, a specimen tree protection requirement is established to promote continued existence of an urban forest in the City of Fayetteville. These standards may be found in Section 30-5.B of the UDO: <http://online.encodeplus.com/regs/fayetteville-nc/doc-viewer.aspx#secid-10461>
- **Open Space Requirements.** Open space requirements have been established to ensure the protection of natural resource areas and continued provision of acreage for active and passive recreation within the City. These standards may be found in Section 30-5.C of the UDO <http://online.encodeplus.com/regs/fayetteville-nc/doc-viewer.aspx#secid-10470>
- **Fences and Walls.** Standards for fences and walls may be found in Section 30-5.D of the UDO <http://online.encodeplus.com/regs/fayetteville-nc/doc-viewer.aspx#secid-10477>
- **Exterior Lighting.** The City of Fayetteville supports the military mission of Fort Bragg and Pope Army Airfield through the implementation of “dark sky” exterior lighting requirements which minimize upward-directed site and security lighting. In addition, the exterior lighting requirements are intended to provide adequate security while minimizing horizontal light trespass unto adjoining properties. These standards may be found in Section 30-5.E of the UDO: <http://online.encodeplus.com/regs/fayetteville-nc/doc-viewer.aspx#secid-10487>
- **Community Form Standards.** These standards promote the development of a street network that supports efficient and effective vehicular and pedestrian circulation through the establishment of a connectivity index, block length and width requirements, development access requirements, traffic calming measures, and sidewalk requirements. These standards

may be found in Section 30-5.F of the UDO: <http://online.encodeplus.com/regs/fayetteville-nc/doc-viewer.aspx#secid-10496>

- **Single- and Two-Family Standards.** Standards promoting building orientation, location, and other one- and two-family residential development design standards may be found in Section 30-5.G of the UDO: <http://online.encodeplus.com/regs/fayetteville-nc/doc-viewer.aspx#secid-10507>
- **Multi-Family Design Standards.** Standards promoting building orientation, building size, parking location, roof form, and other multi-family residential development design standards may be found in Section 30-5.H of the UDO: <http://online.encodeplus.com/regs/fayetteville-nc/doc-viewer.aspx#secid-10511>
- **Commercial, Office and Mixed-Use Design Standards.** Standards relating to building orientation, outparcel development, building façade design, parking location and other similar design requirements may be found in Section 30-5.I of the UDO: <http://online.encodeplus.com/regs/fayetteville-nc/doc-viewer.aspx#secid-10516>
- **Large Retail Design Standards.** “Big box” design standards are established in this section to ensure high quality, architecturally interesting design for large retail structures. Requirements are established to address outparcel development, vacant buildings, landscaping, façade design, roof form, location and number of entrances, parking and circulation, outdoor storage, site lighting, and other design features associated with this type of development. These standards may be found in Section 30-5.J of the UDO: <http://online.encodeplus.com/regs/fayetteville-nc/doc-viewer.aspx#secid-10521>
- **Transitional Standards.** Transitional standards are established to enhance the compatibility between single-family detached residential uses and more intense development, such as the promotion of building façades and heights of appropriate scale, location of parking, height and intensity of exterior lighting, operational standards, and similar requirements for intense development near or adjacent to single-family detached residential uses. These standards may be found in Section 30-5.K of the UDO: <http://online.encodeplus.com/regs/fayetteville-nc/doc-viewer.aspx#secid-10535>
- **Signage.** The City of Fayetteville sign regulations address freestanding and attached permanent signage, temporary signage, and special purpose signage in order to promote adequate identification of businesses and events while meeting the aesthetic standards of the City. These standards may be found in Section 30-5.L of the UDO: <http://online.encodeplus.com/regs/fayetteville-nc/doc-viewer.aspx#secid-10539>
- **Traffic Impact Analysis.** Traffic impact analyses (TIAs) are needed to determine on- and off-site improvements necessary to accommodate the traffic generation impacts of larger-scale development. TIAs are prepared in accordance with traffic engineering standards. TIA requirements may be found in Section 30-5.M of the UDO: <http://online.encodeplus.com/regs/fayetteville-nc/doc-viewer.aspx#secid-10552>
- **Incentives for Sustainable Development Practices.** In the MR-5 and DT zoning districts, density and height bonuses are allowed when certain types of sustainable development practices are observed. These standards may be found in Section 30-5.N of the UDO: <http://online.encodeplus.com/regs/fayetteville-nc/doc-viewer.aspx#secid-10559>
- **Fire Safety Standards.** Minimum fire-flow standards are established to ensure public safety (<http://online.encodeplus.com/regs/fayetteville-nc/doc-viewer.aspx#secid-10565>).

D. DEVELOPMENT REVIEW PROCEDURES

This section of the manual is the longest and most detailed because it addresses the wide range of development review procedures that the City of Fayetteville employs to manage growth and development. These procedures range from building permits to zoning certifications.

This section is organized by describing the City's development review procedures from the most common to the most specialized or unusual. Most of these procedures simply involve the submittal of an application, a review of that application for completeness and for compliance with applicable codes and technical design standards, followed by issuance of a permit or other official document. Many subdivision and site plan applications require review by the Technical Review Committee (TRC) before development can go forward. Certain types of applications require special steps to be taken, such as public hearings, pre-application conferences and neighborhood meetings. When there are many steps in a particular development review procedure, a flowchart is provided to complement the description by illustrating the steps in a graphic format.

Special steps in certain development review procedures include public hearings, pre-application conferences, and neighborhood meetings. These steps are covered in the next four subsections.

1. PUBLIC HEARINGS

Public hearings are held by various City boards involved in the development review process. The procedures involved in noticing, advertising and holding public hearings are specified by laws adopted by the North Carolina General Assembly. City reviewing boards and City staff are required to follow these procedures, ensuring fair and transparent treatment of applicants and the general public.

There are two types of public hearings – “legislative” and “quasi-judicial.” While notice and advertising requirements are basically the same for these two types, the other procedures that are followed before and during the hearings are significantly different.

2. LEGISLATIVE HEARINGS

These types of hearings are relatively simple. The Mayor or board chair introduces the item, a staff report is provided, and the public hearing is opened for comment. Generally, the applicant speaks first, followed by any interested party. After all comment has been received, the public hearing is closed and board deliberations occur, followed by a decision or a recommendation. Other than the limitations provided in the State Open Meetings Law, Board members are able to discuss the items involved in legislative public hearing with the applicant or with other members of the public prior to the item coming to public hearing. Most development review procedures that require public hearings are legislative hearings.

3. QUASI-JUDICIAL HEARINGS

The public hearings for a Special Use Permit, Variance, Subdivision Waiver, Historic Resource Commission and most appeals are quasi-judicial. State law requires these types of hearings to be managed as though they were hearings before a judge. Under these types of hearings, board members cannot receive information outside of what is provided to them by City staff in advance of the hearing. Additionally, the hearings themselves must be evidentiary in nature, requiring sworn testimony from all speakers and that information presented in support or opposition must come from expert witnesses (for example, comments concerning impacts on property values must be presented by real estate professionals and comments regarding noise volume impacts must be presented by acoustical

engineers). In most cases, all evidence and testimony must be able to be rebutted, so petitions, written statements and similar material from people who are not present are generally inadmissible. Actions by board members must include reference to specific findings of fact with regard to the standards of approval set forth in the UDO.

4. PRE-APPLICATION CONFERENCES (UDO SEC. 30-2.B.5)

The pre-application conference is intended as a way for the applicant to become familiar with the City's development review process, the range of standards that will be applied to the application, and how the proposed development may be modified to better comply with UDO requirements. The pre-application conference is also an opportunity for the City staff to become familiar with a site and pending development application. Added value to the resulting design may be achieved by identifying and considering natural attributes of the site and the identification of existing trees as a resource feature in fulfillment of part of the UDO requirements prior to advancement of the development plans. The pre-application conference is intended to provide guidance in this regard.

Depending on the complexity of the application, the pre-application conference may be conducted as a telephone conference, a physical meeting with one or more staff members, or informal consideration at a TRC meeting.

A pre-application conference is **required** for the following development applications:

- Map Amendment (Rezoning)
- Planned Development
- Conditional Rezoning
- Major Site Plan
- Subdivision Plan
- Special Use Permit
- Variance
- Subdivision Waiver

Pre-application conferences are strongly encouraged but are **voluntary for all other application types**, and are not required for City-initiated applications.

Requests for a pre-application conference shall be initiated by a prospective applicant, who must contact the Planning and Zoning Division to schedule the pre-application conference. Applicants may file an optional pre-application conference checklist with the Planning and Zoning Division. These checklists will assist the City in providing detailed guidance on the applicable review standards and procedures. There is no fee required for a pre-application conference. The staff in attendance at a pre-application conference may vary based upon the complexity of the proposal or known site issues that must be addressed as part of the application.

The pre-application conference is a process designed to inform potential applicants about the development review process and help minimize delays. Complex development issues, however, may require additional staff research. In these cases, City staff will provide research results within the timeframe discussed during the pre-application conference. In general, the more detailed the information brought to the meeting, the more thorough and specific the response from City staff.

Applicants seeking approval of a **Planned Development, Conditional Rezoning, Major Site Plan, Subdivision Plan, or Special Use Permit are required to submit a sketch or conceptual drawing** for review during the pre-application conference. An exception to this requirement is for Conditional

Rezoning applications which involve conditions or limitations that are expressed only as text, such as a proposal in which only a limited number of land uses allowed in the base zoning district will be allowed in the proposed conditional zoning district.

Applicants are reminded that the pre-application conference is a preliminary meeting, and is not binding on the City. Comments made during a pre-application conference do not constitute official assurances or representations by the City or its officials regarding any aspect of the plan or submittal. City staff cannot guarantee all relevant issues will be discussed or that initial staff reactions will reflect the ultimate staff recommendation.

During the pre-application conference, City staff will explain the relevant development review procedure(s), the associated review schedule, required application fees, application submittal requirements, and any applicable City policies. The applicant is encouraged, but not required, to keep notes of the meeting, and provide those notes to the City along with other application materials.

The optional Pre-Application Conference Request Checklist (see Appendix B) describes information useful for a pre-application conference. If submitted, these materials must be provided to the City staff at least seven business days in advance of the pre-application conference. In general, the amount of detail on pre-application conference submittals should increase with the complexity of the type of project being proposed.

5. NEIGHBORHOOD MEETINGS (UDO SEC. 30-2.B.6)

The purpose of the neighborhood meeting is to inform owners and occupants of nearby lands about a proposed development application, and provide the opportunity to receive comments and identify and address concerns about the development proposal so that applicants may resolve conflicts and outstanding issues **before formal consideration of an application**.

A neighborhood meeting is mandatory before submission of the following types of applications and optional for all others:

- Map Amendments (Rezonings) and Conditional Rezonings proposing reclassification from a Conservation (CD) zoning district to a base or conditional Mixed Residential 5 (MR-5) or business zoning district
- Conditional Rezonings proposing reclassification of three acres of land or less from one residential or business zoning district to another more intense residential or business zoning district
- Planned Developments
- Site Plans or Subdivision Plans that result in a new street connection to a street or street stub serving an existing single-family residential neighborhood

Mandatory neighborhood meetings shall be held no later than 12 days *prior* to the first Board or Commission review or the decision-making body's first consideration of the application, whichever occurs first. Meetings shall be scheduled after 5:00 P.M. on a weekday and held at a place that is accessible to neighbors that reside in close proximity to the land subject to the application.

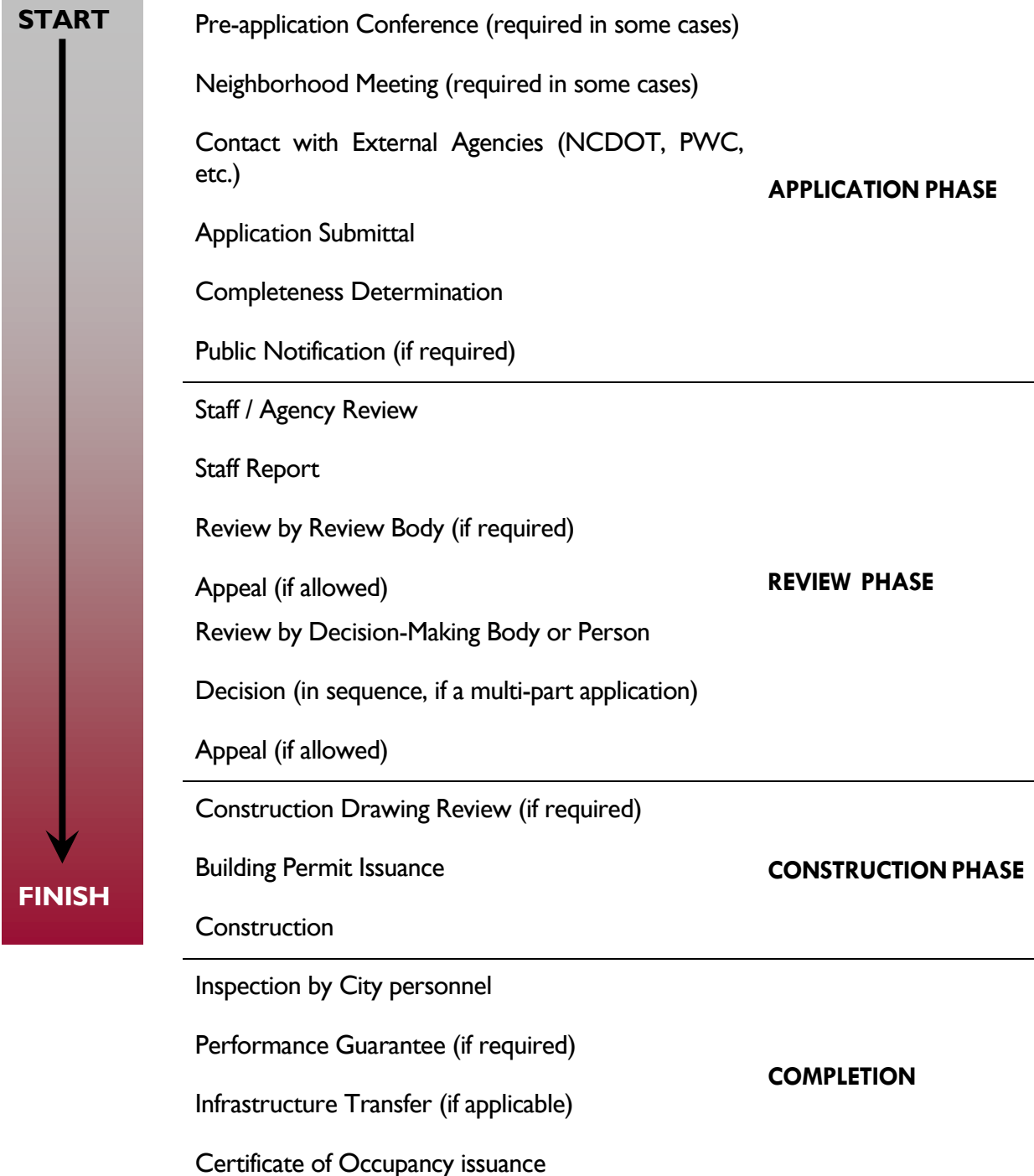
Mailed notice of neighborhood meetings stating the time, place, and general nature of the meeting must be mailed **by the applicant** at least 10 days prior to the meeting, and sent to the Planning and Code Enforcement Director and all landowners required to receive public notice as required by the UDO.

In cases where a Site Plan or Subdivision Plan results in a new street connection to a street or street stub in an existing single-family neighborhood, the applicant shall also post a sign of the neighborhood meeting beside the proposed new street connection, at least 10 days prior to the meeting.

City staff may attend to provide advice about review procedures, but shall not be involved in facilitation or other direction during a neighborhood meeting.

Within five business days after the neighborhood meeting, the applicant shall provide a written summary of the meeting to the City that includes a list of meeting attendees, a summary of attendee comments, an overview of discussions 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. Anyone attending the neighborhood meeting may submit a written response to the applicant's meeting summary, which shall also be included in the application materials.

APPLICATION PROCEDURES OVERVIEW DIAGRAM



The following subsections describe each specific development review procedures that the City of Fayetteville uses to manage growth and development and to enforce state statutes governing development activity.

E. BUILDING PERMIT

A **Building Permit** application is typically the last step in the development review process before actual construction begins. The City uses Building Permit review as an opportunity to ensure proposed development conforms to all previous approvals, the UDO, the State Building Code, the City Code of Ordinances, and all other applicable City requirements. The following activities require approval of a Building Permit:

- New construction of a residential, nonresidential, or mixed-use building, or an accessory building larger than 12 feet along any one side
- Additions to or renovations of an existing building (including garages, carports, deck or patio covers, storage buildings, swimming pools, or decks and porches more than 24 inches above grade)
- Fences over 24 inches in height
- Relocation of a building
- Modifications of habitable space involving structural, electrical, mechanical, or plumbing
- Conversion of unfinished floor space to habitable floor area
- Demolition of any structure or portion of a structure that is larger than 150 square feet prior to demolition
- Structural support or electrical aspects of signage

Even though the Building Permit is the most common development review procedure utilized by the City of Fayetteville, it is one of the most complicated due to the need to comply with the North Carolina State Building and Fire Codes, including issues that develop when a structure is built under a prior building code and is being modified to comply with current codes. Three types of permit applications are utilized to help separate simple projects from those which are more complicated. These application types are listed below.

- Trade permit applications – If the proposed construction involves only a single “trade” (i.e., plumbing, electrical, or mechanical – HVAC), such as the installation of new electrical outlets, a one-page Trade Permit application form provides a simple way to start the permitting and inspections process.
- New construction applications – If the proposed construction involves the erection of a new structure on the property, a standard, two-page Building Permit application, along with any associated plans and other documents, must be completed.
- Addition/renovation applications – If an addition is being constructed to connect to an existing structure or if an interior renovation is being pursued, an Addition/Renovation/Improvement permit application is required.

F. CERTIFICATE OF OCCUPANCY

Issuance of a Certificate of Occupancy (CO) indicates that the Building Official has determined the building to be in compliance with the UDO, the City Code of Ordinances, and the State Building Code, and that the occupancy of the building is allowed in accordance with the approved plans and specifications. A building may not be occupied without the issuance of a CO.

A CO shall be issued after completion of the final inspection when the Building Official determines the building complies with all applicable requirements.

All of the following inspections (as applicable) shall be performed and entered into the City's permit database before the issuance of a CO:

- Building Permit
- Mechanical Permit
- Insulation Permit
- Plumbing Permit
- Electrical Permit
- Driveway Permit
- Infrastructure Permit
- Zoning
- Floodplain Development Permit

G. ZONING CERTIFICATION

A Zoning Certification is a letter that is issued by City staff that may be used by landowners, lenders, realtors, or prospective buyers to confirm the zoning district designation of a property or properties. Additionally, a Zoning Certification can be used to specify all applicable conditions of approval, Administrative Adjustments, Variances, Subdivision Waivers, or other applicable permits or development approvals that are needed to develop a site.

H. SITE PLAN (MAJOR AND MINOR)

Site Plan review is the process used by the City to ensure new development or redevelopment complies with the standards in the UDO, the City Code of Ordinances, and any terms and conditions of development approval.

The UDO establishes two different Site Plan review procedures: Major and Minor Site Plans (<http://online.encodeplus.com/regs/fayetteville-nc/doc-viewer.aspx#secid-9362>).

Major Site Plans include the following types of development that are reviewed and decided upon by the Technical Review Committee:

- New nonresidential or multi-family development with two or more buildings
- New single-building nonresidential development or additions with 2,500 square feet or more in gross floor area
- New single-building multi-family development with eight or more dwelling units
- Development that results in a new street connection with an existing street or street stub in a single-family residential neighborhood
- Zero-lot-line developments

Major Site Plan review may take place in two stages: first, review of a voluntary Preliminary Site Plan, and second, review of a more detailed Final Site Plan. There is no requirement to prepare a Preliminary Site Plan, and applicants may file a Site Plan application that meets the Final Site Plan requirements without undergoing the Preliminary Site Plan step.

The Preliminary Site Plan is not required to include highly-detailed, fully-engineered elements. It is intended to show general compliance with UDO requirements and conditions of approval. City staff will provide comments or information to be included on the Final Site Plan as part of the review of a voluntary Preliminary Site Plan.

The Final Site Plan is required to include all details and required engineering necessary to demonstrate full compliance with the UDO, City Code of Ordinances, Master Plan (if applicable), and staff comments, as appropriate.

Neighborhood meetings. Neighborhood meetings are required only if the Major Site Plan will result in new street connections to existing streets or street stubs within a single-family residential subdivision. When required, applicants must send neighborhood meeting notification letters (see Appendix B for a sample letter) to affected landowners and the City posts a neighborhood meeting notice sign adjacent to the new street connection(s) at least 10 days before the meeting date. Applicants must also provide a written summary of the meeting to the Planning and Zoning Division no more than five days after the meeting.

Minor Site Plans are reviewed by the Planning and Code Enforcement Director and include the following types of development:

- Changes in use
- New single-building nonresidential development or additions of less than 2,500 square feet in gross floor area
- New single-building, multi-family development with seven or fewer dwelling units

Single-family homes on conforming lots, temporary uses, and internal construction that does not increase gross floor area or building height, the density or intensity of use, or affect parking requirements are **exempted** from Site Plan review, but are still subject to the standards in the UDO.

I. SUBDIVISION PLAN AND FINAL PLAT

The subdivision standards control the subdivision of land into individual lots or the relocation of existing lot lines.

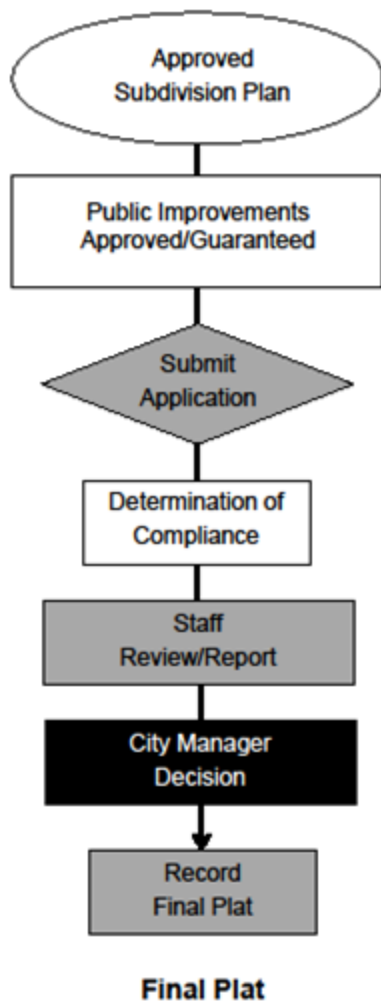
The standards and procedures for subdivision (<http://online.encodeplus.com/regs/fayetteville-nc/doc-viewer.aspx#secid-10572>) are one of the City's primary tools for the development and coordination of the City street and public infrastructure systems (e.g., wastewater, potable water, stormwater, etc.) as development in the City occurs. The procedure requires review and approval of a "plat," or a map of proposed lot lines, streets, and easements. The plat must be recorded in the Register of Deeds office. A Plat Activation Form has to be signed in the County Mapping Office requesting the update of the parcel property lines as shown on the plat. Permits cannot be issued until the subdivision is mapped and the P.I.N. is created.

Subdivision standards regulate the division of land within the City in order to:

- Ensure the harmonious development of the City
- Secure a coordinated layout and adequate provision for traffic circulation
- Ensure adequate provision for light, air, recreation, transportation, water, drainage, sewerage, and other facilities

The UDO establishes two different types of subdivisions:

- Subdivisions of land requiring review by the Technical Review Committee and approval of a plat
- Exempt subdivisions that are not required to undergo the subdivision review procedure in the UDO, but which must obtain sign-off from City staff as a No Approval Required plat.



A plat is a map or plan representing the boundaries and locations of individual lots, open space, streets, and stormwater management devices on a proposed site. Plats must be prepared by a NC licensed professional surveyor or engineer and must be recorded in the office of the Cumberland County Register of Deeds prior to the sale or transmittal of lots within a development. Failure to record an approved Final Plat, or the transfer of property solely by deed in a subdivision required to obtain Final Plat approval is a violation of the UDO.

The following types of divisions of land are exempted from the requirement to undergo subdivision review by the Technical Review Committee:

- A combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots meet or exceed the minimum standards of the UDO
- A division of land into parcels greater than five acres in area where no street right-of-way dedication is involved
- The public acquisition by purchase of strips of land for the widening or opening of streets
- A division of land under single ownership that is two acres or less in area into three or fewer lots that meet the minimum standards of the UDO, provided no street right-of-way dedication is involved.

All other divisions of land require review by the Technical Review Committee.

Applicants for a subdivision required to be reviewed by the Technical Review Committee shall file a Subdivision Plan for review and approval by the City as a preliminary step prior to filing an application for a Final Plat. The Subdivision Plan review process allows applicants to obtain staff comments prior to preparation of detailed studies or engineering. Approval of a Subdivision Plan allows installation of public infrastructure, but not conveyance of lots.

Applicants who believe they have an exempt subdivision may indicate this on the subdivision application form. If this is the case, the Planning and Zoning Division will approve the plat and maintain it in the appropriate divisional file.

J. DRIVEWAY PERMIT

The streets in Fayetteville are maintained and operated by either the City or the North Carolina Department of Transportation (NCDOT). Driveways and other access connections to streets are a major contributor to traffic congestion and adverse roadway operations such as motor vehicle accidents. Indiscriminate roadside development and unregulated access connections result in diminished highway capacity, increased driver and pedestrian conflicts, and an increase in traffic accidents. As a result, the City and the NCDOT have established criteria that regulate the location, design, and operation of access connections or driveways. The Driveway Permit is the procedure used

by the City to regulate how driveways or other accessways connect to streets operated and maintained by the City.

Driveways or access connections to streets operated and maintained by the State require NCDOT review and approval, and are not part of this Driveway Permit procedure. Applicants should contact the City to determine if the proposed street access connection will be made to either a City-maintained versus a NCDOT-maintained street. In some cases, both the City and the State have jurisdiction over proposed street connections, and in these cases, joint review should occur (though separate Driveway Permits will be issued from both the City and NCDOT).

Driveway Permits are not required for new single-family development, but are required for all other forms of new development in the City. Applications for Driveway Permits should be submitted early in the Site Plan or Subdivision Plan review process as a means of ensuring proper development configuration based upon the allowable location and configuration of street access.

The City strongly encourages applicants for larger developments to participate in a pre-application conference with City and State traffic engineers (if appropriate), to determine the optimal location and configuration for street access connections. Approval of a Site Plan or Subdivision Plan does not guarantee approval of a Driveway Permit by the City or NCDOT. Failure to secure a Driveway Permit prior to construction or redevelopment may result in the inability to develop in accordance with approved plans, or the removal of existing street access connections at the applicant's expense.

K. INFRASTRUCTURE PERMIT

An Infrastructure Permit is required for any new development or re-development within the City to ensure compliance and construction of public infrastructure in accordance to City standards. The Infrastructure Permit deals with review and approval of various forms of required infrastructure such as streets, sidewalks, curb and gutter, stormwater management facilities, or other similar features. The Infrastructure Permit is issued by the Engineering & Infrastructure Department and is required before a Building Permit or a Final Plat can be obtained.

- An Infrastructure Permit is required prior to issuance of a Building Permit for any development that includes or extends any public infrastructure, changes the drainage pattern or alters the impervious area.
- An Infrastructure Permit is required before construction commences for any subdivision that includes or extends any public infrastructure, except exempt subdivisions do not require issuance of an Infrastructure Permit.
- Development with nonconforming site features may be required to bring some or all of the nonconforming site features into compliance with City standards.
- Applicants are required to notify the City at milestones in the construction process by requesting an infrastructure inspection.
- A final inspection of required infrastructure is required prior to issuance of a Certificate of Occupancy.

L. FLOODPLAIN DEVELOPMENT PERMIT

Review of a Floodplain Development Permit is the procedure used by the City to review applications for land-disturbing activities such as grading or deposition of fill within the Special Flood Hazard Area. The Special Flood Hazard Area is a flood-prone area adjacent to a watercourse that has a one percent chance of being inundated by floodwater in any given year. For the purposes of the Floodplain

Development Permit, the Special Flood Area is the same as the 100-year floodplain (the area likely to be subject to partial or complete inundation by floodwater during a flood anticipated to occur only once during any 100-year period). The Special Flood Hazard Area is depicted on the City's Flood Insurance Rate Maps on file in the offices of the Planning and Code Enforcement Department. The purpose for the Floodplain Development Permit is to ensure that any activities occurring within the 100 year floodplain will have only a negligible impact on the floodplain's ability to contain floodwater during the 100-year flood event.

Construction of habitable floor area within the 100-Year-Floodplain requires preparation and approval of an Elevation Certificate by a licensed engineer prior to issuance of a Building Permit. To be approved, the Elevation Certificate must demonstrate that the lowest habitable floor area and all associated appurtenances (like water heaters, major appliances, HVAC condensers, electrical outlets, etc.) are at least two feet above the base flood elevation. The base flood elevation is the minimum elevation (relative to sea level) that has a one percent chance of flooding during any given year. The City's standards require that all development be at least two feet above the base flood elevation.

Detailed information on the City's Flood Damage Prevention standards may be found in Chapter 12 of the City Code of Ordinances (<http://online.encodeplus.com/regs/fayetteville-nc/doc-viewer.aspx#secid-29>).

M. SIGN PERMIT

Sign Permits are required for the construction, alteration, or relocation of some types of signage. Some signs are exempted from the signage requirements in the UDO. Section 30-5.L.5 of the UDO sets out the list of signs that are exempted from the sign requirements. These signs are not required to obtain a Sign Permit.

Section 30.5.L.6 of the UDO sets out the list of signs that are allowed without issuance of a Sign Permit, but which are subject to the signage standards in the UDO. These signs may be installed without a Sign Permit, but failure to comply with the standards in the UDO will result in a notice of violation, filed in accordance with Article 30-8: Enforcement, of the UDO. In no instance may a sign permitted without a Sign Permit be internally or externally illuminated.

There are unique sign standards applied based on a sign's location in the Downtown (DT) district, the HLO, or some other business zoning district. The UDO requires approval of a Sign Permit for all other types of signs.

A recent change to the sign regulations allows the Planning Commission to consider an alternative signage plan for commercial, industrial, institutional, or mixed use developments containing ten or more acres in area, or for large cultural or public facilities of a singular nature of any size site, for the purpose of increasing flexibility in the application of sign code requirements to promote comprehensive, unified signage for "campus" type development, to recognize site features that require different approaches to signage, and to reward good sign design that enhances community character (see Section 30-5.L.10.g) (<http://online.encodeplus.com/regs/fayetteville-nc/doc-viewer.aspx?secid=10438&keywords=%22food+truck%22#secid-10549>).

N. MAP AMENDMENT (REZONING)

The Official Zoning Map identifies the geographic location of the zoning districts established in the UDO, and regulates the location of allowable uses and development forms in the City. It is a key tool for implementing the comprehensive plan and regulating development. The **Map Amendment** application procedure allows for review of requests to change the Official Zoning Map designation of lands in the City. This procedure is often called a **Rezoning**.

Map Amendment (rezoning) applications may be initiated by a City review body, or by anyone authorized to file an application. Map Amendment requests require a public hearing before the Zoning Commission (for a recommendation) and City Council (for final approval). The Zoning Commission may recommend or City Council may approve the requested Map Amendment or a Map Amendment of lesser intensity.

During the public hearing process, applications may not be converted from a basic Map Amendment application to a Conditional Rezoning application. This requires withdrawal of the Map Amendment application and resubmission of a Conditional Rezoning application. The City Council may not impose conditions of approval for Map Amendment applications. Map Amendment applications may not be expanded in size or scope after public notification has taken place without re-submittal, re-review, and re-notification of the application.

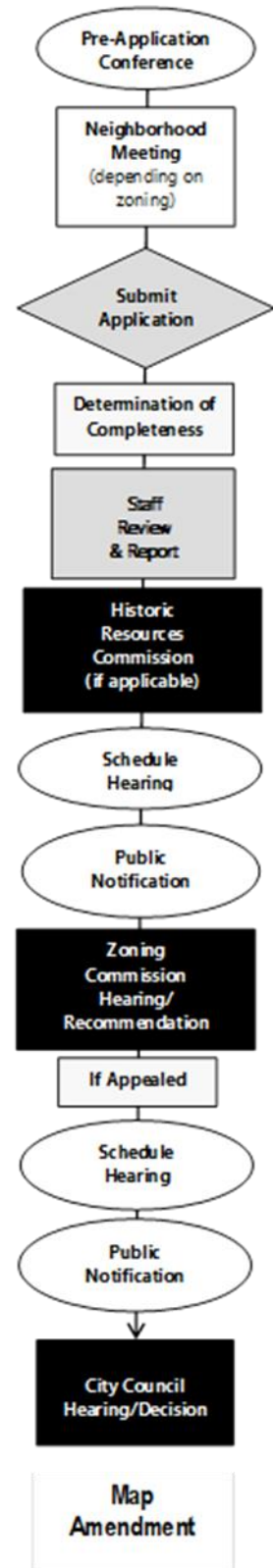
Special steps in the Map Amendment process. A **public hearing** is required by the Zoning Commission with final approval by the City Council by consent or following a public hearing. A **pre-application conference** is required for Map Amendment applications. **Neighborhood meetings** are only required if land classified as Conservation District (CD) is proposed for reclassification to MR-5 or a business zoning district.

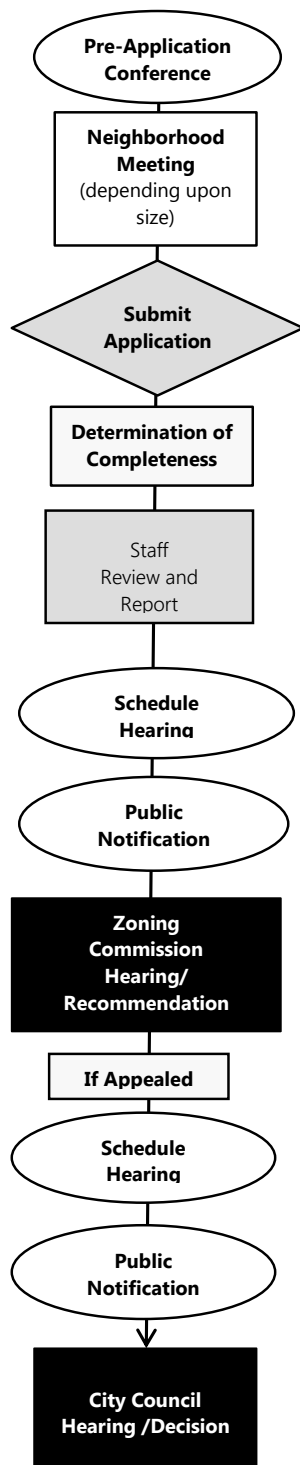
O. SPECIAL USE PERMIT

The Special Use Permit procedure is used to review applications for certain uses that, while not permitted by right in a zoning district, might be allowed following special consideration of the use’s location, design, and methods of operation to address the impacts of the proposed use on surrounding development.

The **Use Table** in Article 30-4 of the UDO sets out the uses allowed in a zoning district subject to review and approval of a Special Use Permit. In addition to being required to receive approval of a Special Use Permit, these uses are subject to any use-specific standards referenced in the Use Table, and may require additional treatment to address potential negative impacts on adjacent lands and development.

Special Steps in the Special Use Permit Process. Special Use Permit hearings are **quasi-judicial** in nature and must follow the requirements of such hearings. **Public hearings** are required at the Zoning





Conditional Rezoning

Commission and City Council. Special Use Permit applications require a **pre-application conference** that in most cases includes review of a sketch or concept plan that illustrates how the use is proposed to be developed. Generally applicants shall include the sketch or concept plan as supporting information with their Special Use Permit application materials.

P. CONDITIONAL REZONING

The Official Zoning Map is a key tool for implementing the comprehensive plan and regulating land use in the City. The Conditional Rezoning procedure allows an applicant to submit a request to amend the zoning district designation of land on the Zoning Map, subject to a set of additional voluntary limitations or expansion of uses expressed as conditions. Since these conditions are voluntary, only a landowner may submit an application for a Conditional Rezoning and only the conditions mutually agreed to by the landowner and the City may be approved as part of a conditional zoning district. Conditions may be provided as text or as conceptual plans.

If approved, a conditional zoning district is equivalent to its corresponding general use (base) zoning district, except as limited or expanded by the additional conditions that the applicant and the City mutually agree are necessary to ensure: compatibility between land uses, conformance to adopted plans, and/or mitigation of expected development impacts.

A sketch or conceptual plan depicting the proposed development to be located within the conditional zoning district may be submitted as an applicant-proposed condition with the Conditional Rezoning application, to be incorporated in the Conditional Rezoning approval.

Special steps in the Conditional Rezoning process. A public hearing is required by the Zoning Commission with final approval by the City Council by consent or following a public hearing. A **pre-application conference** is required for Conditional Rezoning applications. **Neighborhood meetings** for Conditional Rezoning applications are only required if the application includes three or fewer acres, and includes a reclassification to a more intensive zoning district designation; or land classified as Conservation District (CD) is proposed for reclassification to a conditional MR-5 or other business zoning district (see Neighborhood Meetings).

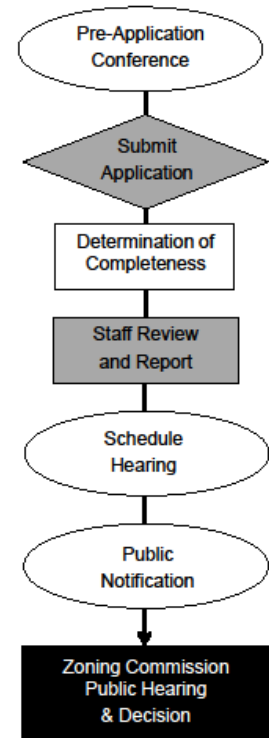
Q. VARIANCE

Variance review procedures allow the deviation from the dimensional standards in the UDO (lot size or area, setbacks, height, bulk standards) when the strict application of these standards would result in “practical difficulties and unnecessary hardships” that result from the unique circumstances related to the land.

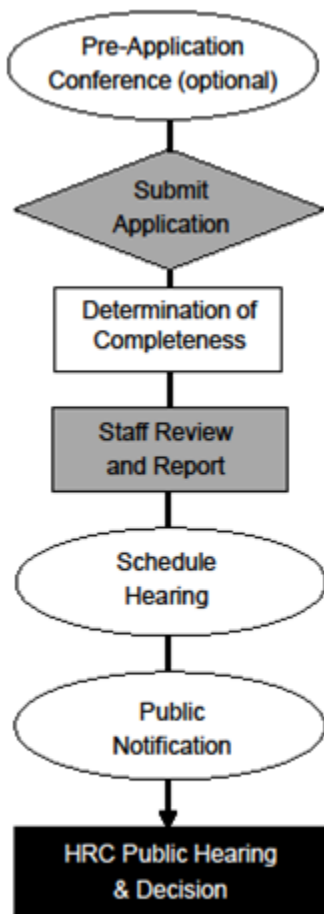
The hardship must stem from special circumstances or conditions beyond the landowner’s control (such as topographical conditions, narrowness, shallowness, or the shape of a specific parcel of land), and not be created by the actions of the landowner.

A Variance does not allow a change in use (if a landowner wants to accomplish a change in use, it is necessary to obtain approval of a Map or Text Amendment).

Special steps in the Variance process. Variance hearings are **quasi-judicial** in nature and must follow the requirements of such hearings. A **public hearing** is required at the Zoning Commission. A **pre-application conference** is required for all Variance applications.



Variance



Certificate of Appropriateness

R. CERTIFICATE OF APPROPRIATENESS

Protecting Fayetteville’s historic areas is an important goal of the comprehensive plan and the UDO. The City has a Historic Resources Planner, who is the City official responsible for administering the Certificate of Appropriateness procedure and staffing the City’s Historic Resources Commission. A Certificate of Appropriateness is required for any exterior work on structures that is visible from a public street or right-of-way on all landmark historic structures or lands within the Historic/Landmark Overlay (HLO), including, but not limited to:

- Demolition
- Exterior building alterations
- Material changes in appearance
- Installation of fencing
- Replacement of siding, doors, windows, or roofing
- Installation of outdoor mechanical equipment
- Replacing broken glass panes, shingles, or missing features with in-kind materials
- Exterior changes to a structure or site visible from a public street or right-of-way
- Modifications to site features like parking, landscaping, or drainage facilities

Special notes about demolition:

- Demolition of an existing landmark historic structure or existing building features on a building or structure in the HLO district requires approval of a Certificate of Appropriateness. The HRC may not deny an application for demolition unless the State Historic Preservation Officer determines the building or site is of statewide significance and the owner would not suffer extreme hardship or be permanently deprived of all beneficial use or return if demolition were denied.
- The Historic Resources Commission may apply a condition that delays the commencement of demolition for up to 365 days to enable negotiation regarding alternatives to demolition.

To gain approval of a Certificate of Appropriateness, the applicant shall comply with the historic district standards in Article 30-3.H.3, Historic/Landmark Overlay (HLO) District, and the *Design Guidelines for Fayetteville's Historic Districts and Local Landmarks*, which can be obtained by contacting the Planning and Zoning Division or going to City's website (<http://fayettevillenc.gov/government/city-departments/planning-code-enforcement/planning-zoning/historic-districts>).

There are several modifications or alterations that do not require issuance of a Certificate of Appropriateness. They include:

- Normal yard and building maintenance, including replacing existing materials with matching in-kind materials
- Repainting painted features the same color (NOTE: painting an unpainted surface, or changing an exterior paint color, requires approval of a Certificate of Appropriateness.)
- Emergency repairs authorized by the Historic Resources Planner.

Certificates of Appropriateness are reviewed and approved by the Historic Resources Planner or by the Historic Resources Commission, depending upon the type of work proposed.

- Certificates of Appropriateness for **minor works**, as defined by the *Design Guidelines for Fayetteville's Historic Districts and Local Landmarks*, are reviewed and decided by the Historic Resources Planner.
- **All other development in the HLO**, unless exempted, is reviewed and decided by the Historic Resources Commission (HRC).

Applicants considering submitting a Certificate of Appropriateness application are strongly encouraged to schedule a voluntary pre-application conference with the Historic Resources Planner to discuss the application forms, process, and other relevant review requirements prior to submitting the application. In cases where Certificate of Appropriateness approval is required, applications for a Building Permit will not be reviewed until after approval for the Certificate of Appropriateness has been received.

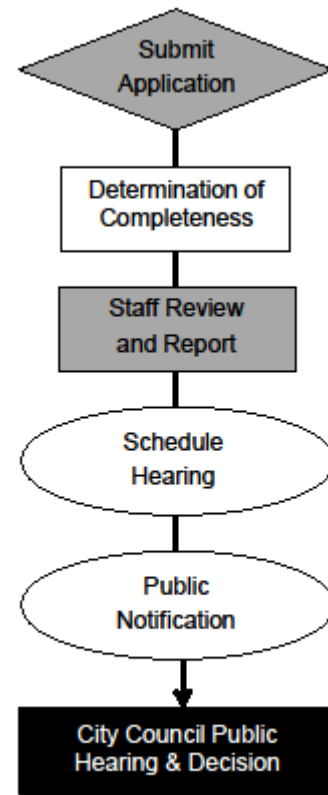
Special step in the Certificate of Appropriateness process. A quasi-judicial **public hearing** is required at the Historic Resources Commission.

S. ANNEXATION

Annexation is the process by which developed or undeveloped property is brought into the corporate jurisdiction of a municipality. North Carolina state statutes provide for two general kinds of annexations – annexation by petition (sometimes known as “voluntary annexation”) and annexation by municipal or state action.

Annexation by petition involves the request by a property owner to be included in the corporate jurisdiction of a municipality. This is the most common type of annexation in Fayetteville at the current time. There are two types of annexation by petition application forms depending upon whether the property being annexed is next to the current city limits (a “contiguous” annexation) or whether the property being annexed is non-contiguous (a “satellite annexation”). State law has different requirements for contiguous and satellite annexations.

Most persons requesting annexation do so in order to obtain utility service through the Public Works Commission. City Council policy interpreted in light of the PWC Charter Revision legislation, requires property within the City’s Municipal Influence Area (MIA) to be annexed in order to receive PWC sewer service or to expand existing service. The flowchart below illustrates the steps involved in an annexation by petition application.

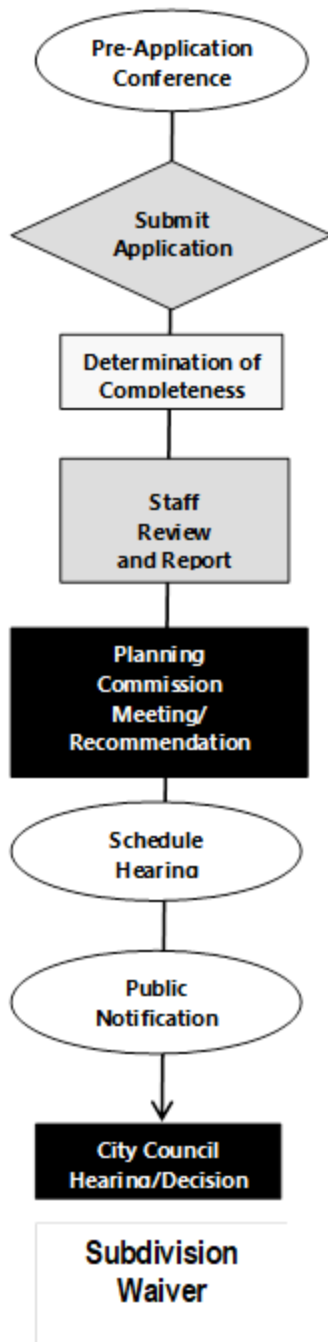


Annexation

Please note that most Annexation applications are also accompanied by an initial Zoning Map Amendment request. The Zoning Map Amendment and Annexation applications run on different tracks until City Council consideration when they are generally considered simultaneously. Persons seeking particular zoning designations are able to withdraw their petition for annexation in the event that the desired designation is not provided.

The other type of annexation involves unilateral action on the part of a municipality or the state of North Carolina to bring a property or properties under the corporate jurisdiction of a municipality. The statutory requirements for this type of annexation are complex and are not part of an application process. No further information on this type of annexation is included in this manual as a consequence.

Special step in the Annexation process. Annexation applications require a **public hearing** by the City Council. The associated Zoning Map Amendment application is typically heard first in order to allow the applicant the opportunity to withdraw the petition for annexation if he or she is dissatisfied with the zoning designation established by City Council.



T. SUBDIVISION WAIVER

A Subdivision Waiver is a request from an applicant to deviate from the minimum subdivision standards in the UDO, based upon unique site conditions. The Subdivision Waiver procedure allows the minimum deviation from the provisions regulating the subdivision of land when the strict application of the UDO would result in unnecessary or unreasonable hardship to the landowner, and the need for a Subdivision Waiver would not be shared generally by other lands.

The hardship must stem from special circumstances or conditions beyond the landowner's control (such as exceptional topographical conditions, narrowness, shallowness, or the shape of a specific parcel of land), and not be created by the actions of the land owner.

Zero lot line design requirements may not be modified through the Subdivision Waiver process.

A Final Plat subject to an approved Subdivision Waiver shall include a notation describing the approved Subdivision Waiver and the date of approval by the City.

Special steps in the Subdivision Waiver process. Public hearings are required at the Planning Commission and a quasi-judicial public hearing is held by City Council. A **pre-application conference** is required for Subdivision Waiver applications.

U. CLEAR-CUTTING PERMIT

A Clear-Cutting Permit is used by the City to provide guidance and regulate the removal of healthy trees on a development site which is not subject to an approved Site or Subdivision Plan. The intent is to allow some clearing while retaining trees in areas which are off limit to development, and a buffer of vegetation along the property perimeter.

The removal of a diseased, dead or dying tree does not require a clear-cutting permit, nor does tree removal on single family detached residential lots established prior to 2011. Agricultural, horticultural, or forestry lands taxed at present use value in accordance with Sections 105-277.2 through 277.7 of the North Carolina General Statutes may timber or conduct land

disturbing activity without a clear-cutting permit as long as a vegetated perimeter buffer is retained as described Subsection 30-2.C.9.b.2.b of the UDO (<http://online.encodeplus.com/regs/fayetteville-nc/doc-viewer.aspx#secid-9369>).

The following examples should assist applicants in understanding when a Clear-Cutting Permit is required.

Example 1: Clearing on Vacant Land

A landowner of a vacant, wooded 50-acre lot with two specimen trees seeks only to timber the land. The land is not used for farming or forestry purposes, the landowner has no development plans, and has not submitted any development applications. In order to proceed with clearing the land and/or engaging in land-disturbing activity, the landowner is required to obtain a Clear-Cutting Permit and is limited on the area in which trees may be removed: Trees proposed for removal may not be located in areas off limit to development; specimen trees must be identified and protected unless a compelling argument is made as to why such trees should be removed, accompanied by the removal fee ; and a buffer of vegetation must be retained along the property perimeter since development plans have not yet been approved. Failure of the landowner to obtain a Clear-Cutting Permit before timbering or failure to comply with the Clear-Cutting Permit while timbering is a violation of the UDO and would subject the landowner to the available enforcement and remedies.

Example 2: Clearing After an Approval

A landowner of a vacant, wooded 50-acre lot with two specimen trees seeks to subdivide the land, and submits an application to the City for a Subdivision Plan. The subdivision cannot be developed without removal of the specimen trees. The Subdivision Plan is approved and the applicant pays the specimen tree removal fee. The landowner may proceed in clearing the land and/or engaging in land-disturbing activities according to the approved Subdivision Plan. The landowner is not required to obtain a Clear-Cutting Permit.

V. TEMPORARY USE PERMIT

Temporary uses are uses that are allowed in a zoning district for a specified limited duration, subject to approval of a Temporary Use Permit. They include such uses as temporary sales, temporary structures, and special events. Examples include seasonal sales of produce or agricultural products, construction or sales trailers, model sales homes, or short-term storage in portable shipping containers.

The UDO requires Temporary Use Permits to allow the City to evaluate a proposed temporary use to determine if it will create a health or safety impact. If the temporary use will create such an impact, the Temporary Use Permit will be approved only if conditions address the health and safety concerns.

W. ADMINISTRATIVE ADJUSTMENT

The Administrative Adjustment procedure allows an applicant to request minor deviations in numerical standards of up to ten percent, as well as adjustments from the minimum street connectivity index score requirements and large retail development design standards.

The Administrative Adjustment allows the City to apply some flexibility to the application of the standards in the UDO if the development can be accomplished in ways that further the goals of the comprehensive plan, maintains land use compatibility, and are consistent with the intent and goals of the UDO.

Administrative Adjustments are approved by the Planning and Code Enforcement Director upon a showing the proposed Administrative Adjustment complies with the standards in Section 30-2.C.16.e, Administrative Adjustment Standards, in the UDO. While the Administrative Adjustment does not require the demonstration of a hardship, as is required by a Variance, the Administrative Adjustment does require compliance with the Administrative Adjustment standards (see Section 30-2.C.16.e of the UDO)(<http://online.encodeplus.com/regs/fayetteville-nc/doc-viewer.aspx#secid-9376>).

An Administrative Adjustment application may be filed as a “stand-alone” application or with other applications, like a Site Plan. In these cases, the Administrative Adjustment shall be approved first.

- Failure to obtain a Building Permit or commence construction (when a Building Permit is not required) within six months of the approval renders the Administrative Adjustment invalid.
- In the event the Administrative Adjustment is associated with a development application other than a Building Permit (e.g., Site Plan, Subdivision Plan, etc.), then the expiration period for the Administrative Adjustment shall be the same as the other required permit or development approval expiration period.
- The Planning and Code Enforcement Director may approve a lesser modification than requested as part of the Administrative Adjustment application, or may apply conditions to an approval.
- Approval of an Administrative Adjustment application does not guarantee approval of any subsequent application for permit or development approval.

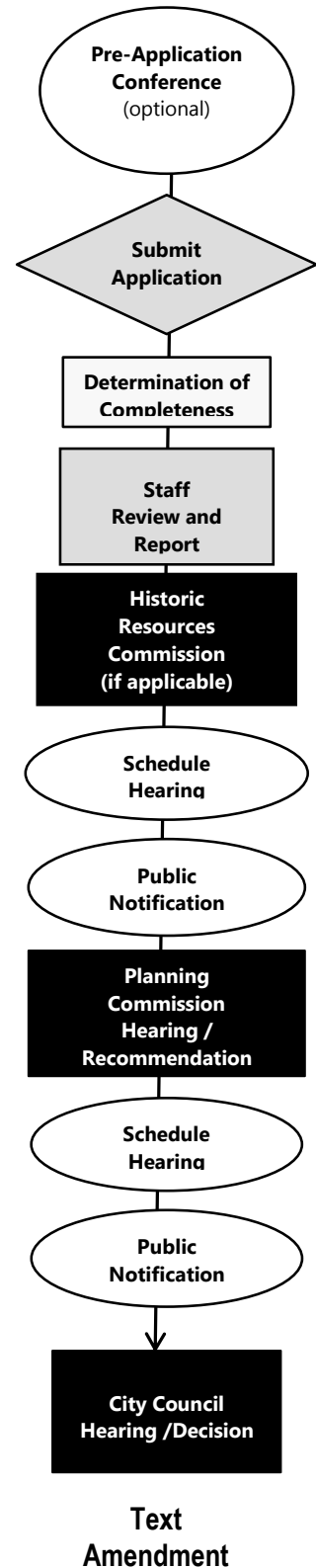
X. TEXT AMENDMENT

The UDO text is the language that regulates the use of land through the establishment of zoning districts, use standards, development standards, provisions for nonconformities, and enforcement. The language in the UDO may be amended through the Text Amendment application procedure.

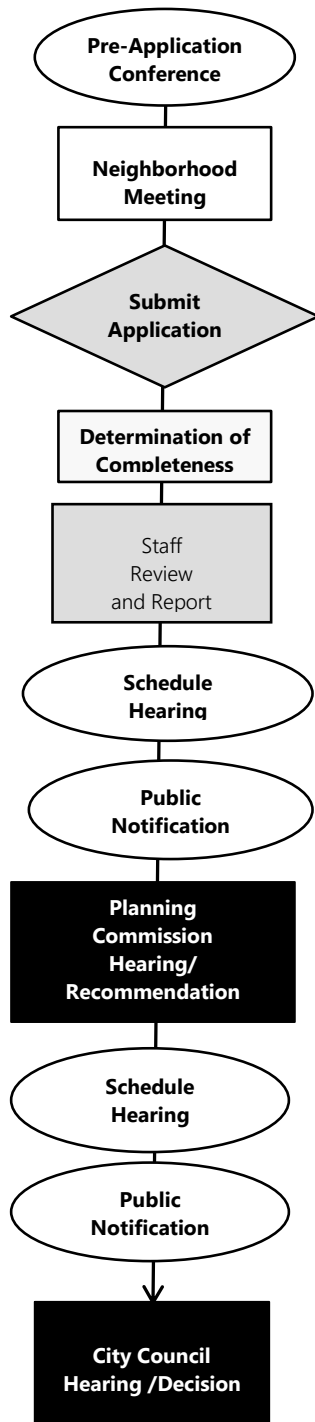
Text amendments may be initiated by the City Council, by City staff (unilaterally or under the direction of the Planning Commission, Zoning Commission, or Historic Resources Commission), or by another interested party. **Public hearings** are required at the Planning Commission and City Council.

Y. INTERPRETATION

An Interpretation of the UDO is a formal action that clarifies the meaning of text provisions in the UDO or delineates boundaries on the Official Zoning Map. A person may request an Interpretation when they are unclear about the meaning of language in the UDO, a use in the use table, or boundaries identified on the Official Zoning Map. Interpretation requests may be initiated by a City review body



or by anyone authorized to file an application. Additionally, City staff may use Interpretations to manage decision-making concerning the UDO. Interpretations are maintained in a formal fashion to promote consistency and transparency.



Planned Development

Z. APPEALS

Appeal opportunities are provided for many development review decisions established in the UDO. Appeal procedures vary depending upon the type of appeal as described in the bulleted list below.

- A decision by a City official is presumed correct, and may not be reversed or modified, except in cases where there is substantial evidence in the record that there is an error, and the decision is invalid.
- Appeal of a decision on a Building Permit shall be made to the North Carolina Commissioner of Insurance.
- Appeal of a decision on a Subdivision Plan, Subdivision Exemption, or Final Plat shall be made to the Planning Commission.
- Appeal of the staff decision on a Certificate of Appropriateness for Minor Works shall be made to the Historic Resources Commission.
- Appeal of the Technical Review Committee’s decision resulting in a new street connection to a street or street stub in an existing single-family neighborhood shall be made to the City Council.
- Appeal of a decision on an in-lieu fee amount by the City Manager shall be made to the City Council.
- Appeal of the Zoning Administrator shall be to the Zoning Commission.
- Appeal of a Zoning Commission decision shall be made to the City Council.

Regardless of the type of appeal, any review and decision-making body deciding an Appeal may apply conditions as part of its decision on the appeal. An appeal shall stay all proceedings by the City on the appeal except in cases where a stay would cause “imminent peril to life or property.”

AA. PLANNED DEVELOPMENT

The Planned Development procedure is a zoning mechanism that encourages a comprehensive and flexible approach to development. It allows an applicant to propose a development that deviates from the minimum requirements in the base zoning district (e.g., dimensional and development standards like parking or landscaping), based on the expectation that the entire development will be planned comprehensively and will maintain a minimum level of quality that surpasses what would otherwise be established through a strict application of the minimum base zoning district and development standards. This level of flexibility is possible because the developer is expected to furnish a Master Plan that shows how the proposed development will be built, and a Terms and Conditions document describing the rights and responsibilities of the developer regarding how the development will be built and maintained.

Except for the greater flexibility relative to the standards, the Planned Development procedure operates somewhat like a Conditional Rezoning. The process requires submittal of a detailed Master Plan and a binding Terms and Conditions document that is approved as a part of the zoning map amendment to establish a particular Planned Development district. This approach allows the City to review the proposed development legislatively, where approval criteria are more flexible, and findings of facts are not required.

A Planned Development is established through an amendment of the Official Zoning Map to one of three different Planned Development zoning district classifications:

- Planned Development- Residential (PD-R)
- Planned Development- Economic Center (PD-EC)
- Planned Development- Traditional Neighborhood (PD-TN)

Special steps in the Planned Development process. Public hearings are required at the Planning Commission and City Council. A **pre-application conference** is required for Planned Development applications. **Neighborhood meetings** are required for all Planned Development applications.

BB. VESTED RIGHTS CERTIFICATE

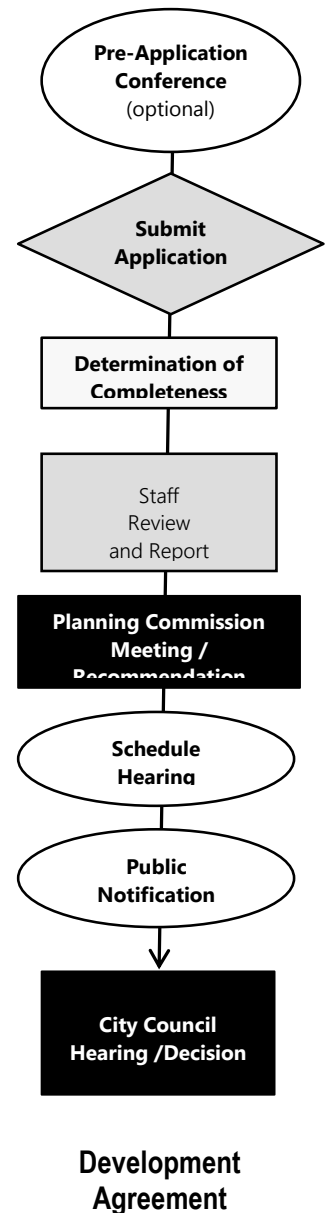
A Vested Rights Certificate allows an applicant with an approved and unexpired Site Plan, Subdivision Plan, or Final Plat to “vest” the plan or plat, in accordance with the UDO. Such “vesting” allows development to continue on an approved plan even if certain deadlines are not met and/or there are code changes that might otherwise affect continued development of the property.

An application for a Vested Rights Certificate may be filed concurrently or following approval of a Site Plan, Subdivision Plan, or Final Plat application. An applicant may request a maximum vesting period of five years from the date of the approval of the Vested Rights Certificate. In approving the vested rights certificate, the Planning and Code Enforcement Director may apply conditions of approval. Additionally, the City may apply additional overlay zoning district requirements to lands subject to a Vested Rights Certificate, but the overlay standards may not affect the approved type or intensity of uses.

CC. DEVELOPMENT AGREEMENT

Some developments, because of their large size, non-traditional nature, multi-phase nature, complexity, or location in proximity to environmentally-sensitive lands require a long-term commitment of public and private resources and annual monitoring to achieve success.

Due to the cost and potential risk associated with these types of projects, applicants often seek assurances that development regulations remain stable during the build-out process. There are also benefits to the public when the provision of public facilities is coordinated with development and environmentally-sensitive lands are well managed and monitored. Development agreements have been used by local governments for over 20 years to address these concerns.



The Development Agreement procedure allows the City and the developer to enter into an agreement for completion of the development, subject to compliance with specific requirements set down in the agreement. A Development Agreement may only be applied to proposed developments of at least 25 buildable acres. The terms of a Development Agreement apply to all successors in interest.

Except for situations specified in Section 160A-385.1(e) of the North Carolina General Statutes, the City may not subsequently apply ordinances or development policies to a development that is subject to a Development Agreement. Major modifications to a Development Agreement are reviewed under the same procedure as the original application. Minor modifications to a Development Agreement may be processed administratively in accordance with Section 30-2.C.20.G.3 of the UDO.

PART 3: DEVELOPMENT PROCEDURE REVIEWING BODIES AND STAFF

This section of the Administrative Manual covers the review boards and staff members directly involved in development procedures.

A. CITY COUNCIL

As the City of Fayetteville's governing board, the City Council is empowered by state statutes to be the reviewing board authorized to make decisions on Map Amendments, Conditional Rezoning, Planned Developments, Annexations, Text Amendments, and Development Agreements. In addition, the Council has elected to be the reviewing body for Special Use Permits, Subdivision Waivers, and certain appeals.

B. PLANNING COMMISSION

The Planning Commission is a recommending body charged with advising the City Council on matters pertaining to the text of the UDO, the comprehensive plan, the land-use plan, Planned Developments, and Subdivision Waivers.

C. ZONING COMMISSION

Like the Planning Commission, except when hearing Variance Requests or Appeals of interpretations or Certificates of Appropriateness, the Zoning Commission is a recommending body charged with advising the City Council on matters pertaining to Map Amendments, Conditional Rezoning, and Special Use Permits. Decisions made by the Zoning Commission with regard to Map Amendments where the Commission and City staff are in agreement enable these items to be placed on the City Council consent agenda. Decisions made on variance or appeal requests are final unless challenged in Superior Court.

D. HISTORIC RESOURCES COMMISSION

The Historic Resources Commission is charged with implementing the Historic District and Historic Landmark design guidelines by reviewing major works Certificates of Appropriateness. Historic Resources Commission decisions are final unless appealed to the City Council.

E. CITY MANAGER

The City Manager is ultimately responsible for all decisions and enforcement actions of City staff. In the UDO, the term "City Manager" typically refers not to the Manager *per se*, but to the staff member designated by the City Manager to perform the particular development review or enforcement duty.

F. TECHNICAL REVIEW COMMITTEE

The Technical Review Committee is a group composed of City staff members and representatives from outside agencies such as PWC, NCDOT and Cumberland County Schools. The TRC is charged with reviewing and approving Major Site Plans and Subdivision Plans Plats. Additionally, the TRC may review and provide comments on Special Use Permits, Planned Developments, Conditional Rezonings, Subdivision Waivers, Administrative Adjustments, Annexations, and Alternative Landscape (Section 30-5.B.4.f) or Parking Plans (Section 30-5.A.8).

1. PLANNING AND CODE ENFORCEMENT DEPARTMENT

- The **Planning and Zoning Division** manages the Technical Review Committee, processes development applications (including Map Amendments, Conditional Rezonings, Special Use Permits and Variance applications), conducts Site and Subdivision Plan reviews, maintains the UDO and Official Zoning Map, processes Petitions for Annexation, and supports the review and decision-making bodies.
- The **Housing and Code Enforcement Division** enforces the UDO and the Minimum Housing Code standards.

2. PERMITTING AND INSPECTIONS DEPARTMENT

- Building Plan Review and Inspections Division conducts building plan reviews, issues Building Permits, and conducts building inspections.
- The Administration & Permitting Division is responsible for general management of the Permitting & Inspections Department, building permit issuance, and scheduling inspection requests.

3. ENGINEERING AND INFRASTRUCTURE DEPARTMENT

- The **Engineering Division** provides engineering and technical support services including surveying, the design of streets, sidewalks, and storm drainage facilities, and the review of plans submitted for development applications and oversees a comprehensive stormwater program providing engineered drainage infrastructure across the City in accordance with state and local regulations.
- The **Construction Management Division** inspects public infrastructure improvements in new development, and issues permits for work within the public right-of-way (e.g., driveways and sidewalks).
- The **Traffic Services Division** conducts or coordinates various traffic studies and investigations and recommends and facilitates traffic control improvements.
- The **Stormwater Division** manages the stormwater quality program and ensures compliance with NPDES permit requirements and environmental regulations.

G. HISTORIC RESOURCES PLANNER

The Historic Resources Planner is the staff member charged with implementing the Historic District and Historic Landmark design guidelines through the Certificate of Appropriateness process.

The following table illustrates the reviewing groups for development review procedures that involve public hearings.

Development Review Steps for Procedures Involving Public Hearings:

Procedure	City Council	Planning Commission	Zoning Commission	HRC	TRC	City Staff		
						Planning	Engineering	HRP
Annexation	D				R	R		
Appeal	D	D	D	D		R		
Certificate of Appropriateness (Major Work)	A			D				R
Conditional Rezoning	D		R		R	R		
Development Agreement	D	R			R	R		
Map Amendment (Rezoning)	D		R		R	R		
Neighborhood Compatibility	A	D				R		
Planned Development	D	R			R	R		
Special Use Permit	D		R		R	R		
Subdivision Waiver	D	R			R		R	
Text Amendment	D	R				R		
Variance			D			R		

List of Abbreviations

Abbreviations for Actions

- D - Decision
- R - Recommendation
- S – Staff Action
- A - Appeal

Board or Staff Abbreviations

- HRC – Historic Resources Commission
- HRP – Historic Resources Planner
- TRC - Technical Review Committee