



Proposed Text Amendment

Case No. T-2009-04

Date of Report: July 15, 2009
Staff Contact: William Meyer, AICP, Development Services Director

INFORMATION

Applicable Sections: Section 1-1000 Vested Rights to Develop Property; Section 2-200(P) Lapse of Approval; Sections 2-300(B)(4)(g), 2-300(B)(5)(c), 2-300(C)(7), 2-300(D)(8), 2-300(E)(10), 2-300(F)(9), 2-300(G)(4), and 2-300(H)(8), all entitled Expiration; and Section 2-300(I)(5)(b)(7) Expiration & (8) Extension.

Application Date: May 11, 2009
Applicant: Rock Hill City Council
Attachments: Proposed Amendment Language

EXPLANATION FOR AMENDMENT

In 2004, the General Assembly of the State of South Carolina, amended the South Carolina Local Government Comprehensive Planning Enabling Act (Title 6, Chapter 29 of the S.C. Code) to add Article 11 cited as the “Vested Rights Act”. While the adoption of the new Zoning Ordinance in late 2005 included a section in Article 1-General Provisions acknowledging this act, there was also a significant amount of language in Article 2-Administration that was in conflict with State law.

On May 11, 2009, the Rock Hill City Council agreed to sponsor an amendment to modify language affecting various approvals and vested rights and bring the Zoning Ordinance into conformance with the Vested Rights Act. The Vested Rights Act requires the City to grant a two year vesting for all approvals of what are defined as “Site Specific Development Plans”, which are plans “describing with reasonable certainty the types and density or intensity of uses for a specific property”. The Act lists specific approvals that are defined as such, which in our local terminology include planned developments, subdivision preliminary and final plats, site plans, conditional uses, special exceptions, and variances. Based on the definition, we feel these also would include certain Historic Certificates of Appropriateness for additions or modifications to historic structures that allow for changes of use or intensity.

The attached language adopts common language under section 2-200(P) that would apply to all site specific development plans covering the expiration and extension of approvals per the State law. Permit specific language in the various sections of 2-300 has been removed to refer back to 2-200(P) when appropriate. For those approvals not meeting the definition of site specific development plans, existing language on expiration and extension has been retained.

After the two year vesting period, the Act requires a process providing for up to five annual extensions “unless an amendment to the land development ordinances or regulations has been adopted that prohibits approval.” Absent any other clarification, we have interpreted this to mean that Zoning Ordinance amendments would need to be incorporated into any extension, unless the amendment was of a magnitude that it rendered the original plan infeasible.

We feel that these amendments retain the maximum local latitude allowed for under the Act, and clarify to our greatest ability how the Act is to be applied locally.

PUBLIC MEETINGS

Planning Commission Discussion

After presentation of the staff report, the following discussion was held:

Mr. Roper asked if this was significantly different from current Code. Mr. Meyer explained that most current approvals were only good for one year.

Mr. Christopher asked about a fee for an extension. Mr. Meyer explained that fees are handles under a separate ordinance, and there was a conscious decision not to add or increase fees this year.

Public Hearing

A public hearing on this application was held on July 7, 2009 before the Rock Hill Planning Commission. There were no comments received from the public on the proposal

STAFF RECOMMENDATION

Staff recommends approval of the proposed amendments.

PLANNING COMMISSION RECOMMENDATION

Following the public hearing g, the Planning Commission voted 6-0 (Gathings absent) to recommend approval of the proposed text amendment.

PUBLIC NOTIFICATION

The following public notification actions have been taken:

- June 7 & 21, 2009 - Planning Commission public hearing advertisements published in *The Herald*.

ATTACHMENTS:

- Proposed text amendment language with editorial notations
- Copy of relevant State law

ARTICLE 1: GENERAL PROVISIONS

1-100 TITLE

1-200 AUTHORITY

1-300 PURPOSE AND INTENT

1-400 APPLICABILITY AND JURISDICTION

1-500 RELATIONSHIP TO OTHER CODES, ORDINANCES, AND LAWS

1-500(A) Conflicts with Other City Codes or Laws

If the provisions of this Ordinance are inconsistent with one another or if the provisions of this Ordinance conflict with provisions found in other adopted codes or ordinances of the City, the more restrictive provision shall govern unless the terms of the provisions specify otherwise.

1-500(B) Conflicts with Private Agreements

If the provisions of this Ordinance conflict with the provisions of private easements, covenants, or restrictions, the stricter of the requirements shall apply. The City shall not be responsible for monitoring or enforcing private covenants and restrictions, although the City ~~may~~ shall inquire as to whether land is subject to covenants and restrictions during the review of development applications.

1-500(C) Conflicts with State or Federal Law

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

1-600 OFFICIAL ZONE DISTRICT MAP

1-700 ZONE DISTRICT CLASSIFICATION OF ANNEXED LANDS

1-800 SEVERABILITY

1-900 TRANSITIONAL PROVISIONS

1-900(A) Effective Date

Subject to the other provisions in 1-900(C), the effective date of this Ordinance is March 1, 2006.

1-900(B) Violations Continue

Any violation of the previous Zoning Code (Ordinance 65-101, as amended) and Land Development Regulations (Ordinance 98-57, as amended) of the City shall continue to be a violation under this Ordinance and any other applicable ordinances, laws, or statutes, and shall be subject to the penalties and enforcement set forth in Article 9: *Enforcement*, and any other applicable ordinances, laws, or statutes, unless the use, development, construction, or other activity complies with the express terms of this Ordinance.

1-900(C) Completion of Permit Approvals or Completed Applications Commenced or Approved Under Previous Ordinances

(1) Completed Applications

(a) Any complete development application that has been submitted for approval, but upon which no final action has been taken by the appropriate decision-making body or person prior to January 1, 2006, shall be reviewed and considered in accordance with either the provisions of the Ordinance in place on the date of submittal, or this Ordinance, at the applicant's option. Any complete development application that is submitted on or after January 1, 2006, shall be reviewed and considered in accordance with the provisions of this Ordinance.

(b) If the applicant elects to have the complete application reviewed under the provisions of the Ordinance in place on the date of submittal:

1. The application shall be processed in good faith and shall comply with any time frames for review, approval, and completion as established in the Ordinance in place at the time of application submittal. 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.
2. If the complete application is approved, the development for which the application was approved shall comply with any time frames and conditions of approval imposed as part of the development approval, or the development approval shall expire and future development shall be subject to the requirements of this Ordinance.

(2) Preliminary or Final Approval

(a) Special Exception Permits, Variance Permits, Sign Permits, and Certificates of Zoning Compliance

Any development for which a Special Exception Permit, Variance Permit, Sign Permit, or Certificate of Zoning Compliance was granted prior to March 1, 2006, or was reviewed in accordance with Section 1-900(C)(1)(a), *Completed Applications*, may be completed in accordance with the permit approval even if the development does not conform to the provisions of this Ordinance, if:

1. The development complies with all terms, conditions, and timeframes associated with the permit approval; and
2. The development obtains all subsequent permits or approvals necessary for completion of development, consistent with the terms and conditions of this Ordinance (unless compliance would frustrate the development approved in the Special Exception Permit, Variance Permit, Sign Permit, or Certificate of Zoning Compliance); and
3. In cases where the approval does not specify a timeframe for completion, development is completed within two (2) years from March 1, 2006.

If development subject to this subsection fails to comply with any of the standards of this subsection, the permit shall expire and future development shall be subject to the requirements of this Ordinance.

(b) All Other Plat and Permit Approvals

Except for development on vacant lots in Old Town, a development for which other preliminary or final approval (Planned Unit Development, Preliminary Subdivision Plat, Intermediate Field Survey Plat, Certificate of Appropriateness, Certificate of Hardship, Group Development Plan, Cluster Development Master Plan, and NMU Master Plan) was granted prior to March 1, 2006, may be completed in accordance with the approved plat or permit approval and any other approved permits and conditions, even if the development does not comply with the requirements established in this Ordinance, subject to the following:

1. If other permit approvals are required before development of that project or project phase is allowed, the development approved prior to March 1, 2006, or in accordance with Section 1-900(C)(1)(a), *Completed Applications*, shall be processed in good faith under the regulations in existence at the time of its approval. For example, a final plat may be processed based on an approved preliminary plat, but subsequent site or building development will be subject to the current Ordinance. If during subsequent review, the development subject to the preliminary or final approval fails to comply with any time frames for review or conditions of approval, the permit approval shall expire and future development shall be subject to the requirements of this Ordinance.
2. If other permit approvals are not required before development is allowed, the development for which the final development approval was granted shall comply with any time frames and conditions of permit approval imposed, or the development approval shall expire and future development shall be subject to the requirements of this Ordinance.
3. Development proposed on vacant lots in Old Town shall be subject to the Infill Design and Development Standards in Section 6-800(E) regardless of whether or not the lot is subject to an approved Preliminary or Final Plat.

(3) Developments with Previously Issued Building Permits or Final Plats for Subdivision

- (a) Any development for which a Final Plat for Subdivision or Building Permit was granted prior to March 1, 2006, or in accordance with Section 1-900(C)(1)(a), *Completed Applications*, shall be permitted to develop, even if such building or development does not conform to the provisions of this Ordinance.
- (b) If the development for which the Final Plat for Subdivision or Building Permit is issued fails to comply with the time frames for development or conditions of permit approval, it shall expire and future development shall be subject to the requirements of this Ordinance.

(4) Previously Permitted Uses Requiring Special Exception

If a previously permitted use in existence on March 1, 2006 requires a special exception under this ordinance, it is deemed to have been granted such special exception and is considered a conforming use.

1-1000 VESTED RIGHTS TO DEVELOP PROPERTY

1-1000(A) Findings

- (1) The General Assembly of the State of South Carolina, by Act 287 of 2004, amended the South Carolina Local Government Comprehensive Planning Enabling Act (Title 6, Chapter 29 of the S.C. Code) to add Article 11 cited as the "Vested Rights Act".
- (2) The City Council has determined that it is in the best interest of the City to avoid the default provisions and maintain and allow for local government control and flexibility of local planning and zoning functions to the extent allowed by law.

1-1000(B) Establishment and Conditions of Vested Rights

(1) Vested Rights Established

A vested right to develop property in accord with a site specific development plan is triggered upon the final approval of the site specific development plan by the final official or decision-making body authorized to approve the site specific development plan, and the payment to the City of all applicable established fees. While the City may approve grading, installation of utilities, streets or other infrastructure under separate permits in anticipating of site specific development plan approval, any such construction or any expenditure in preparing documents for further permits is done at risk, since rights are not vested in the site specific development plan until it is approved and fees paid.

(2) Subject to the South Carolina Code of Laws

Except as hereinafter set forth, a vested right established by this Ordinance is subject to the conditions and limitations as set out in Sections 6-29-1540 and 6-29-1550 of the Code of Laws of South Carolina, as enacted by Act 287 of 2004.

(3) Expiration and Extension

~~A vested right for an approved site specific development plan expires two (2) years after the date of final approval by the final official or decision-making body authorized to approve a site specific development plan. The expiration or extension of a vested right is subject to the terms of section 2-200(P) of this Ordinance.~~

(4) Phased Development Plans

No vested rights are established for phased development plans, including approved or conditionally approved phased development plans including those plans applicable to lands proposed for annexation. An approved or conditionally approved site specific development plan is required prior to approval with respect to each phase of a phased development plan.

(5) Amendment

~~A vested site specific development plan may be amended if the amendment conforms to, or does not cause greater nonconformity with, the then current provisions of this Ordinance and all other City ordinances. Approval or conditional approval of an amendment does not re-set or re-start the expiration period of a vested right.~~

(6) Extension

~~No sooner than ninety (90) days, and no later than forty-five (45) days prior to the expiration of the two (2) year vested right period for an approved site specific development plan, the landowner of property with a vested right in the site specific development plan may apply to the authorized official or decision-making body for an annual extension of the vested right. The authorized official or decision-making body must approve an application for an annual extension of the vested right unless an amendment to this Ordinance or other applicable City ordinances has been adopted which would ordinarily prohibit the site specific development~~

~~plan previously vested. No more than five (5) annual extensions of the vested right may be approved.~~

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- 3. *Written Statement of Findings*
A written 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.
- 4. *Recommendation or Decision*
A statement of a recommendation or decision of approval, approval with conditions, or denial (whichever is appropriate).

2-200(O) Conditions of Approval

(1) General

When a review board or the Development Services Director may, according to the express terms of this Ordinance, approve a permit or development approval with conditions, such board or the Development Services Director may impose restrictions and conditions on the approval. The conditions may, as appropriate, ensure compliance with the general goals and policies of this Ordinance or with particular standards of this Ordinance, to prevent or minimize adverse effects from the proposed development on surrounding lands.

(2) Limitations

The restrictions and conditions imposed must be related in both type and amount to the impact that the proposed development would have on the public and surrounding development. All conditions imposed shall be expressly set forth in the permit approval.

2-200(P) ~~Lapse of Approval~~ Expiration and Extension of Approvals

~~Lapse of approval (also referred to as “expiration”) shall occur as provided by this Ordinance for the various types of development permits and approvals. If no provision for lapse is given by this Ordinance for a particular type of development permit or approval, and if no lapse period is imposed as part of an approval by the decision-making entity, lapse shall occur if development is not commenced or a subsequent permit is not obtained within one (1) year.~~

(1) Expiration

Pursuant to Title 6, Chapter 29, Article 11 of the South Carolina Code of Laws, all approvals of site specific development plans shall expire two (2) years after the date of final approval by the final official or decision-making body authorized to approve the site specific development plan. Site specific development plans include planned development district approvals, conditional use permits, special exception permits, variance permits, administrative adjustments, site plan approvals, and subdivision plan approvals, except where considered a phased development plan as defined at section 6-29-1520 of the South Carolina Code of Laws. Other permits and approvals are subject to expiration or extension as specified by this ordinance, and if no expiration is specified, the permit or approval shall expire after one (1) year if development is not commenced or a subsequent permit is not obtained.

(2) Extension of Approval

Pursuant to Title 6, Chapter 29, Article 11 of the South Carolina Code of Laws, all approvals of site specific development plans shall be granted up to five (5) annual extensions consistent with the following procedures and criteria:

(a) Application for Extension

The applicant shall apply for an extension of approval no earlier than 90 days and no later than 30 days before the expiration of the approval or previously

approved extension. Application shall be made on the form provided by the City.

(b) Approval of Extension

The application for extension shall be reviewed by the approving authority of the original application and approved if it meets the criteria cited below.

(c) Criteria for Extension Approval

In considering the application for extension, the decision making authority shall consider whether the application has been timely filed, and whether amendments to Zoning Ordinance or other land development regulations have been adopted that prohibit the approval of such an extension. If the requirements of any amendments can be reasonably accommodated within the previously approved plan, the extension shall be approved subject to the incorporation of those requirements. If the requirements preclude the development of the plan, the extension shall be denied.

(d) Effect of Amendments upon Approvals

Approval or conditional approval of an amendment to any plan or permit approval does not re-set or re-start the expiration period of a vested right.

2-200(Q) Waiver of Time Limit

(1) General

Whenever any application for a development permit requiring a public hearing is denied, an application for all or a part of the same land shall not be considered for a period of one (1) year after the date of denial unless a Waiver of Time Limit is subsequently approved by the decision-making body in accordance with the requirements of this section. Only one (1) request for Waiver of Time Limit may be submitted by the applicant during the one (1) year period.

(2) Waiver of Time Limit

(a) Owner or Authorized Agent

Only the owner of land or the owner’s authorized agent may submit a request for Waiver of Time Limit.

(b) Initiation

A request may be initiated by the owner or the owner’s authorized agent by submitting a request for Waiver of Time Limit to the Development Services Director, along with a fee to defray the cost of processing the request.

(3) Action

At the meeting for which the request for Waiver of Time Limit is scheduled, the decision-making body shall consider the request, other relevant support materials, statements made by the applicant or the applicant’s representative, and the public, and approve or deny the request based on the standards in Section 2-200(Q)(4), *Waiver of Time Limit Standards*.

(4) Waiver of Time Limits Standards

The Waiver of Time Limit shall be approved only upon a finding by two-thirds (²/₃) or more of the membership of the decision-making body that substantial evidence is presented that demonstrates:

(a) Substantial Change in Circumstances

There is a substantial change in circumstances relevant to the issues and/or facts considered during review of the application that might reasonably affect

the decision-making body's application of the relevant review standards to the development proposed in the application; or

(b) *New or Additional Information*

New or additional information is available that was not available at the time of the review that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed; or

(c) *New Application Materially Different*

A new application is proposed to be submitted that is materially different from the prior application; or

(d) *Material Mistake of Fact*

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

2-200(R) Simultaneous Processing of Applications

Whenever two (2) or more forms of review and approval are required under this Ordinance, the applications for those permits or approvals may, at the option of the Development Services Director, be processed simultaneously, so long as all applicable state and local requirements are satisfied.

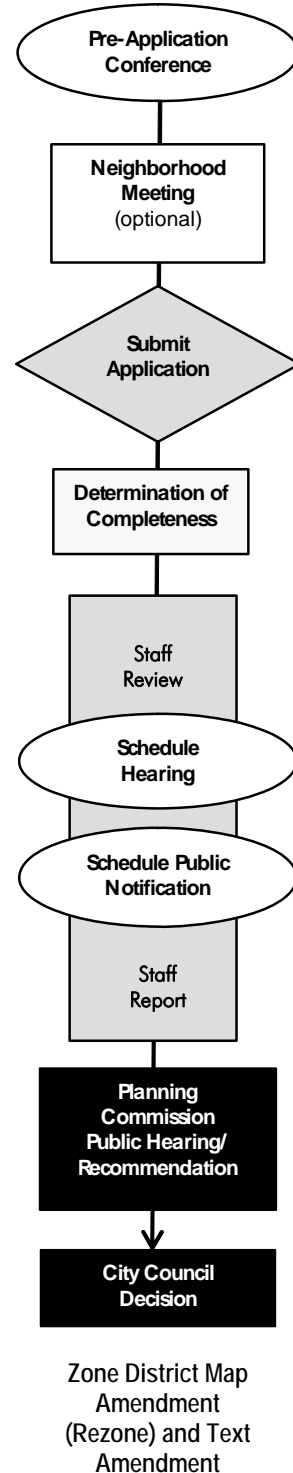
2-200(S) Notification of Decision

Within a reasonable period of time after a decision on an application, the Development Services Director shall notify the applicant of the decision by mail. Within a reasonable period of time after the decision, a copy of the decision shall also be made available to the public at the offices of the Development Services Director, during normal business hours.

2-300 SPECIFIC STANDARDS AND OTHER REQUIREMENTS FOR APPLICATIONS FOR DEVELOPMENT APPROVAL

2-300(A) Amendments to Text and Official Zone District Map

- (1) **Purpose**
 The purpose of this section is to provide a means for amending the text of this Ordinance or making an amendment to the Official Zone District Map (Rezoning).
- (2) **Authority**
 The City Council may adopt an ordinance amending the text of this Ordinance or amending the Official Zone District Map (Rezoning) upon compliance with the provisions of this section.
- (3) **Initiation**
 - (a) **Amendment to the Text of this Ordinance**
 An application to amend the text of this Ordinance may be initiated by the City Council, the Planning Commission, or requested by an owner of land in the City.
 - (b) **Amendment to Official Zone District Map**
 An application to amend the Official Zone District Map (Rezoning) may be initiated by the City Council, the Planning Commission, the BHR (for an amendment for an Historic Property designation or an Historic Overlay (YH) district classification only), or a person who may submit applications in accordance with Section 2-200(A), *Authority to File Applications*.
- (4) **Procedures**
 - (a) **Pre-application Conference, Application Review, Notification and Scheduling Hearing**
 The procedures and requirements for submission and review of an application are established in Section 2-200, *Common Procedures*.
 - (b) **Review and Recommendation by Planning Commission**
 After preparation of a Staff Report, public notification, and the scheduling of the public hearing, the application shall be referred to the Planning Commission by the Development Services Director on the date the public hearing on the application is conducted. The Planning Commission shall conduct a public hearing on the application in accordance with Section 2-200(N), *Public Hearing Procedures*. At the public hearing, the Planning



Commission shall consider the application, the relevant support materials, the Staff Report, the testimony given at the public hearing, and following the close of the public hearing, make a report to the City Council recommending either to approve or deny the application based on the standards in Section 2-300(A)(5), *Standards*. The Planning Commission shall forward its report to City Council within thirty (30) calendar days from the date of the application's referral by the Development Services Director (unless a longer review period is established by mutual agreement of the applicant and Planning Commission). If the Planning Commission does not submit its report within the prescribed time, it is presumed the Planning Commission recommends approval of the application, and the City Council may proceed to act on the application without the recommendation of the Planning Commission.

(c) *Review and Action by City Council*

After receipt of the report from the Planning Commission, the City Council shall review and consider the application, the relevant support materials, the Staff Report, the report of the Planning Commission, and the comments given at the meeting (if any). During the meeting, the City Council, by a majority vote of a quorum present, shall either adopt an ordinance amending the Text of this Ordinance or the Official Zone District Map (whichever is appropriate), or deny the application, based on the standards of Section 2-300(A)(5), *Standards*.

(d) *Protest Petitions*

1. *General*

Applications to amend the Official Zone District Map which are subject to a valid protest petition shall require an affirmative vote of at least three-fourths ($\frac{3}{4}$) of all members of the City Council to be adopted.

2. *Valid Protest Petitions*

For a protest petition to be considered valid, it shall be signed by at least twenty percent (20%) of the landowners who own lots:

- a. Included in the area subject to the amendment application;
- b. Located immediately adjacent to the side or rear of the lands subject to the amendment application; or
- c. Located directly opposite of the lands subject to the amendment application.

(5) *Standards*

(a) *Text Amendments*

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

1. *Consistent with General Plan, Focal Point, and Sub-area Plans*

Whether and the extent to which the proposed amendment is consistent with the *General Plan*, and relevant adopted Focal Point and Sub-area Plans.

2. *Consistent with Ordinance*
Whether the proposed amendment is in conflict with any provision of this Ordinance, and related City regulations.
3. *Changed Conditions*
Whether and the extent to which there are changed conditions that require an amendment.
4. *Community Need*
Whether and the extent to which the proposed amendment addresses a demonstrated community need.
5. *Compatible with Surrounding Uses*
Whether and the extent to which the proposed amendment is consistent with the purpose and intent of the zone districts in this Ordinance, or will improve compatibility among uses and will ensure efficient development within the City.
6. *Development Patterns*
Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern.
7. *Effect on Natural Environment*
Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

(b) Amendments to Official Zone District Map (Rezone)

Amending the Official Zone District Map (Rezoning) is a matter committed to the legislative discretion of the City Council. In considering an amendment to the Official Zone District Map (Rezoning), the City Council may adopt a change for only part of the area requested or for a less intense zone district than requested by the applicant, or both. In determining whether to adopt or deny the proposed amendment, the City Council shall consider and weigh the relevance of the following factors:

1. *Consistent with General Plan, Focal Point, and Sub-Area Plans*
Whether and the extent to which the proposed amendment is consistent with the *General Plan*, and any relevant adopted Focal Point or Sub-area Plans.
2. *Changed Conditions*
Whether and the extent to which there are changed conditions that require an amendment.
3. *Community Need*
Whether and the extent to which the proposed amendment addresses a demonstrated community need.
4. *Compatible with Surrounding Uses*
Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land, and is the appropriate zone district for the land.

5. *Development Patterns*
Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern, or deviate from logical and orderly development patterns.
6. *Premature Development*
Whether and the extent to which the proposed amendment would encourage pre-mature development.
7. *Strip or Ribbon Commercial Development*
Whether and the extent to which the proposed amendment would result in strip or ribbon commercial development.
8. *Isolated Zone District*
Whether and the extent to which the proposed amendment will result in the creation of an isolated zone district unrelated to adjacent and surrounding zone districts.
9. *Property Values*
Whether and the extent to which the proposed amendment will result in significant adverse impacts on the property values of surrounding lands.
10. *Effect on Natural Environment*
Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

2-300(B) Planned Development District

(1) General

This section establishes the procedures for review of the City’s Planned Development (PD) zone districts: Planned Development–Residential (PD-R); Planned Development–Commercial (PD-C); Planned Development–Major Employment Center (PD-MEC); Planned Development–Traditional Neighborhood Development (PD-TND); and Planned Development-Planned Educational District (PD-PED).

(2) Location

A PD zone district classification may be established on any land that complies with all of the applicable standards of this section.

(3) Unified Ownership or Control

To ensure unified control, copy of the title to all land that is part of a proposed PD zone district classification shall be provided, and all owners of the land shall sign the planned development application to indicate their support for the application and willingness to be bound by any conditions of approval.

(4) PD Zone District Classification and PD Master Plan

(a) Procedure

1. General

A PD zone district classification shall constitute an amendment to the Official Zone District Map (Rezone). It shall be controlled by a PD Master Plan and PD Terms and Conditions. The procedure requires approval of a PD zone

district classification, PD Master Plan, and PD Terms and Conditions (Section 2-300 (B)(4)(c)), and then a Final PD Plan (Section 2-300(B)(5)).

2. *Pre-application Conference, Application Submission, Review, Public Notification, and Scheduling Hearing*

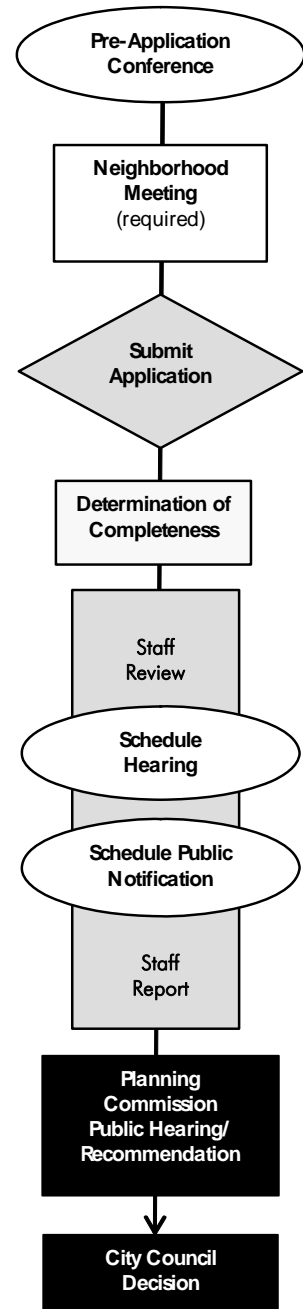
The procedures and requirements for submission and review of an application are established in Section 2-200, *Common Procedures*.

3. *Review and Recommendation by Planning Commission*

After preparation of a Staff Report, public notification, and the scheduling of the public hearing, the application shall be referred to the Planning Commission by the Development Services Director on the date the public hearing on the application is conducted. The Planning Commission shall conduct a public hearing on the application in accordance with Section 2-200(N), *Public Hearing Procedures*. At the public hearing, the Planning Commission shall consider the application, the relevant support materials, the Staff Report, the testimony given at the public hearing, and following the close of the public hearing, make a report to the City Council recommending either to approve, approve with conditions, or deny the application based on the standards in Section 2-300(B)(4)(b), *Planned Development Standards*. The Planning Commission shall forward its report to City Council within thirty (30) calendar days of the application's referral by the Development Services Director (unless a longer review period is established by mutual agreement of the applicant and Planning Commission). If the Planning Commission does not submit its report within the prescribed time, it is presumed the Planning Commission recommends approval of the application, and the City Council may proceed to act on the application without the recommendation of the Planning Commission.

4. *Review and Action by City Council*

a. After receipt of the report from the Planning Commission, the City Council shall review and consider the application, the relevant support materials, the Staff Report, the report of the Planning Commission, and the comments given at the meeting (if any). In its discretion, the City Council may refer the matter back to the Planning Commission for further study and recommendation on specific issues and for a supplemental report to be submitted to the City Council. If the referral requires additional public notification, it shall be given in accordance with Section 2-200(I), *Public Notification*. During the meeting at which the application is finally considered, the City Council shall approve, approve with conditions, or deny the application based on the standards in Section 2-300(B)(4)(b), *Planned Development Standards*.



Planned Development

- b. An application for a PD zone district classification shall be subject to the standards in Section 2-300(A)(4)(d), *Protest Petitions*.

(b) *Planned Development Standards*

A PD zone district classification, PD Master Plan, and PD Terms and Conditions shall comply with the standards in Section 2-300(A)(5)(b), *Amendments to Official Zone District Map (Rezone)*, and the standards for the type of PD district that is being approved in accordance with Section 3-400(D), *Standards*.

(c) *PD Terms and Conditions*

Concurrent with the approval of the adopting ordinance and the PD Master Plan, PD Terms and Conditions shall be established binding the planned development to any conditions placed in the adopting ordinance and PD Master Plan. The PD Terms and Conditions shall include, but are not limited to:

1. *PD Master Plan and PD Standards*

The PD Master Plan and PD Standards.

2. *Conditions*

Conditions related to the approval of the PD Master Plan.

3. *Other Provisions Related to Future Development of PD*

Standards, conditions, or other provisions related to future development approvals, or responsibilities of the landowners within the PD Master Plan.

(d) *Conditions of Approval*

In approving a PD zone district classification, a PD Master Plan, and PD Terms and Conditions, the City Council may impose appropriate conditions on the approval in accordance with Section 2-200(O), *Conditions of Approval*.

(e) *Placement of Planned Development District (PD) Classification on Official Zone District Map*

After final approval of the adopting ordinance for the PD zone district classification, the PD Master Plan, and PD Terms and Conditions, the Development Services Director shall amend the Official Zone District Map to show a PD zone district classification.

(f) *Recordation*

The applicant shall record the adopting ordinance, the PD Master Plan and the PD Terms and Conditions with the York County Clerk of Court. They shall be binding upon the landowners, their successors and assigns, and shall constitute the development regulations for the land. Development of the land shall be limited to the uses, density, configuration, and all other elements and conditions set forth on the PD Master Plan and in the PD Terms and Conditions. The applicant shall submit proof to the Development Services Director that the adopting ordinance, PD Master Plan, and PD Terms and Conditions have been recorded with the York County Clerk of Court within six (6) months of its approval, or the adopting ordinance, PD Master Plan, and PD Terms and Conditions shall automatically and immediately be rendered invalid and the land shall return to its prior zone district classification (or if the land was not located in the City prior to its approval as a PD zone district classification, the land shall be classified RH district).

(g) Expiration**~~1. General~~**

~~The approval of the adopting ordinance for a PD zone district classification, the PD Master Plan, and PD Terms and Conditions shall expire unless an application for a PD Final Plan for any part or section of the plan for development shown on the PD Master Plan is submitted within one (1) year of approval (see Section 2-300(B)(5)). Such time period shall not be extended with transfer of ownership be subject to the terms of Section 2-200 Expiration and Extension of Approval for Site Specific Development Plans.~~

~~2. Extension~~

~~a. Upon written application submitted at least thirty (30) days prior to the expiration of the permit period by the applicant, and upon a showing of good cause, the Planning Commission may grant an extension not to exceed six (6) months for the submission of a Final PD Plan. The approval shall be deemed extended until the Planning Commission has acted upon the request for extension.~~

~~b. If the PD Final Plan is not submitted within the time established in the extension, the Planning Commission, prior to the time the extension will expire, shall recommend to the City Council that either one (1) additional six (6) month extension be granted, for good cause, or the land be rezoned to its prior zone district classification (or if the land was not located in the City prior to its approval as a PD zone district classification, the land be classified RH district). The City Council shall act on the recommendation of the Planning Commission within a reasonable period of time.~~

~~3. Expiration~~

~~a. Failure to submit a Final PD Plan within the time limits established by this section shall result in expiration of the PD zone district classification, the PD Master Plan, and the PD Terms and Conditions, and the prior zone district classification shall thereupon be re-established (or if the land was not located in the City prior to its approval as a PD zone district classification, the land shall be classified RH district).~~

~~b. If an applicant can demonstrate that a pending legal action has prevented them from submitting a Final PD Plan, the City Council, may, upon terms and conditions as determined in its sole discretion, consider suspending the expiration of the PD zone district classification, the PD Master Plan, and the PD Terms and Conditions until the legal action is resolved.~~

(h) Minor Deviations

A minor deviation to a PD Master Plan and/or PD Terms and Conditions shall not be considered as an amendment, and shall be approved by the Development Services Director. The minor deviation shall comply with the standards of this Ordinance. A minor deviation shall be limited to technical considerations which could not reasonably be anticipated during the approval process or any other change which has no material effect on the character of the approved PD development or any of its approved terms or conditions. The following shall constitute minor deviations:

1. *Driveway Relocations*
Driveway relocations.

2. *Structure Floor Plan Revisions*
Structure floor plan revisions.

3. *Facility Design Modifications*
Facility design modifications for amenities and the like.

Changes that materially affect the basic concept of the PD Master Plan are not considered minor deviations, and shall only be changed as amendments to the PD Master Plan and/or the PD Terms and Conditions (Section 2-300(B)(4)(c)).

(i) **Amendments**

1. *General*

If an applicant determines it is necessary to alter the concept or intent of the PD Master Plan, and/or the PD Terms and Conditions, the PD Master Plan and/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:

- 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 are moved so traffic flows both inside and outside the development are affected);
- e. Change in the location of any public easement;
- f. Change in the proportion of housing types by more than fifteen percent (15%); or
- g. Violation of any specific condition of the PD Terms and Conditions.

(5) **Final PD Plan**

(a) **Submittal of PD Final Plan**

Within one (1) year of the approval of a PD zone district classification, PD Master Plan, and PD Terms and Conditions, the applicant shall submit a PD Final Plan for any part or section of the plan for development shown in the PD Master Plan. The PD Final Plan shall implement the PD Master Plan. For the purposes of this Ordinance, the PD Final Plan shall mean either Site Plan (Section 2-300(H)) or Preliminary Plat for Subdivision (Section 2-300(I)(5)(b)) approval, whichever is appropriate.

(b) **Standards**

In addition to complying with the relevant standards for Site Plan (Section 2-300(H)) or Subdivision (Section 2-300(I)), whichever is appropriate, the PD Final Plan shall also conform to the PD Master Plan and the PD Terms and Conditions.

(c) **Expiration**

~~1. Substantial Completion Required~~

~~The approval of a PD Final Plan shall be subject to the terms of Section 2-200, Expiration and Extension of Approval for Site Specific Development Plans expire unless construction has reached the level of substantial completion. For the purposes of this subsection, substantial completion shall mean the issuance of Certificates of Occupancy for fifty percent (50%) or more of the residential units or for thirty-three percent (33%) or more of non-residential square footage in the PD Final Plan, within one (1) year of the date of approval of the PD Final Plan.~~

~~2. Extension~~

~~a. Upon written application submitted at least thirty (30) days prior to the expiration of the permit for Final PD Plan by the applicant, and upon a showing of good cause, the Planning Commission may grant an extension not to exceed six (6) months. The approval shall be deemed extended until the Planning Commission has acted upon the request for extension.~~

~~b. If the construction has not achieved substantial completion within the time established in the extension, the Planning Commission, prior to the time the extension will expire, shall recommend to the City Council that one (1) additional extension be granted for a period not to exceed six (6) months, for good cause shown, or if a PD Final Plan for the planned development has not achieved substantial completion, the land be rezoned to its prior zone district classification (or if the land was not located in the City prior to its approval as a PD zone district classification, the land shall be classified RH district). The City Council shall act on the recommendation of the Planning Commission within a reasonable period of time.~~

2-300(C) Conditional Use Permit

(1) **Purpose**

Conditional uses are uses that are generally compatible with the other uses permitted in a zone district, but require individual review of their location, design, configuration, and density and intensity of use, and usually require the imposition of conditions to ensure the appropriateness of the use at a particular location.

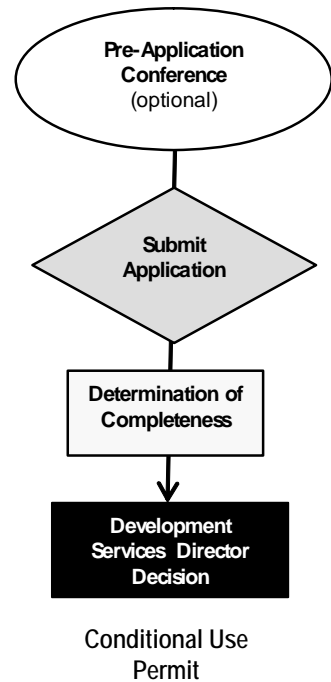
(2) **Authority**

(a) **General**

The Development Services Director is authorized to review and decide on an application for a Conditional Use Permit in accordance with this section.

(b) **Uses Authorized**

Only those uses identified as conditional uses in Table 4-100(B), *Table of Allowed Uses*, are authorized to be considered for Conditional Use Permits under this section. The designation of a use as a conditional use in Table 4-100(B), *Table of Allowed Uses*, does not constitute authorization that such use shall be approved



through a Conditional Use Permit in accordance with this section. Rather, each proposed conditional use shall be evaluated by the Development Services Director for compliance with the standards set forth in this section, and the standards for the use in Section 4-300, *Use Specific Standards*.

(3) Procedure

(a) *Initial Submission of Application and Staff Review*

The procedures and requirements for and review of an application are established in Section 2-200, *Common Procedures*.

(b) *Review and Action by Development Services Director*

The Development Services Director shall review and take action on the application in accordance with Section 2-200(M), *Review by Development Services Director*.

(4) Conditional Use Standards

A Conditional Use Permit shall be approved only upon a finding the applicant has demonstrated all of the following standards are met:

(a) *Complies with Use Specific Regulations*

The proposed use complies with all standards in Section 4-300, *Use Specific Standards*.

(b) *Roads*

There is adequate road capacity available to serve the proposed conditional use, and the proposed use is designed to ensure safe ingress and egress onto the site and safe road conditions around the site.

(c) *Access for Fire, Police, EMS*

The proposed conditional use is designed so that adequate access onto the site is provided for fire, police, and EMS services.

(5) Conditions of Approval

In approving a Conditional Use Permit, the Development Services Director may impose appropriate conditions on the permit approval in accordance with Section 2-200(O), *Conditions of Approval*, to ensure the conditional use complies with the standards of this section.

(6) Effect

Issuance of a Conditional Use Permit shall authorize only the particular conditional use that is approved in the permit. A Conditional Use Permit, including any conditions, shall run with the land and not be affected by a change in ownership.

(7) Expiration

The approval of a Conditional Use Permit shall be subject to the terms of Section 2-200, Expiration and Extension of Approval for Site Specific Development Plans.

~~(a) General~~

~~The Development Services Director may prescribe a time limit within which development activity shall begin or be completed on the Conditional Use Permit, or both. Failure to begin and/or complete such development activity within the time limit specified results in the expiration of the Conditional Use Permit. Unless specified otherwise by the Development Services Director, a Building Permit shall be obtained for the development approved by the permit within twelve (12) months from the date of approval, and development shall be completed on the Building Permit within the time allowed under the City's~~

~~building regulations, or the Conditional Use Permit shall expire and be void. In cases where a Building Permit is not required to establish an approved conditional use, a Certificate of Conformity (Section 2-300(P)) shall be obtained within twelve (12) months from the date of approval, or the Conditional Use Permit shall expire and be void.~~

(b)Extension

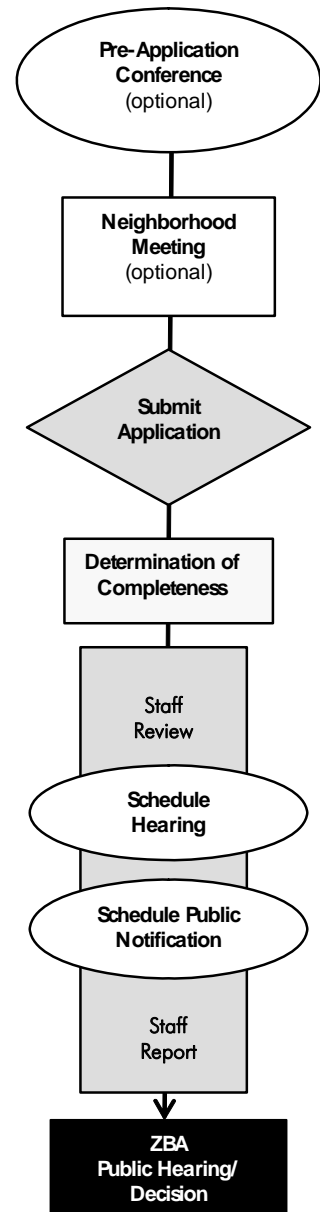
~~Upon written application submitted at least (thirty) 30 days prior to the expiration of the permit period by the applicant, and upon a showing of good cause, the Development Services Director may grant one (1) extension not to exceed six (6) months, for good cause shown. The approval shall be deemed extended until the Development Services Director has acted upon the request for extension. Failure to submit an application for an extension within the time limits established by this section shall result in the expiration of the Conditional Use Permit.~~

- (8) **Amendment**
 A Conditional Use Permit may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

2-300(D) Special Exception Permit

- (1) **Purpose**
 The purpose of this section is to provide a means for reviewing applications for approval of uses allowed as Special Exceptions. These are uses that are generally compatible with the other uses permitted in a zone district, but require individual review of their location, design, configuration, and density and intensity of use, and may require the imposition of conditions to ensure the appropriateness of the use at a particular location.

- (2) **Authority**
 The ZBA is authorized to review and decide applications for Special Exception Permits in accordance with this section. Only those uses identified as Special Exceptions in Table 4-100(B), *Table of Allowed Uses*, are authorized to be considered as Special Exceptions under this section. The designation of a use as a Special Exception in Table 4-100(B), *Table of Allowed Uses*, does not constitute an authorization that such use shall be approved through a Special Exception Permit in accordance with this section. Rather, each proposed Special Exception shall be evaluated by the ZBA for compliance with the standards set forth in this section and the applicable standards for the use in Section 4-300, *Use Specific Standards* (if appropriate).



Special Exception Permit

(3) Procedure**(a) Application Submission, Review, Public Notification and Scheduling Hearing**

The procedures and requirements for submission and review of an application are established in Section 2-200, *Common Procedures*.

(b) Review and Action by Board of Zoning Appeals

After preparation of a Staff Report, public notification, and the scheduling of a public hearing, the ZBA shall conduct a public hearing on the application in accordance with Section 2-200(N), *Public Hearing Procedures*. At the public hearing, the ZBA shall consider the application, the relevant support materials, the Staff Report, and the testimony given at the public hearing. After the close of the public hearing, the ZBA shall approve, approve with conditions, or deny the application based on the standards in Section 2-300(D)(4), *Special Exception Standards*.

(4) Special Exception Standards

A Special Exception Permit shall be approved only upon a finding the applicant demonstrates all the following standards are met:

(a) Complies with Use Specific Regulations

The proposed special exception complies with all standards in Section 4-300, *Use Specific Standards*.

(b) Compatibility

The proposed special exception is appropriate for its location and compatible with the character of surrounding lands and the uses permitted in the zone district(s) of surrounding lands.

(c) Design Minimizes Adverse Impact

The design of the proposed special exception minimizes adverse effects, including visual impacts of the proposed use on adjacent lands; furthermore, the proposed special exception avoids significant adverse impact on surrounding lands regarding service delivery, parking and loading, odors, noise, glare, and vibration, and does not create a nuisance.

(d) Design Minimizes Environmental Impact

The proposed special exception minimizes environmental impacts and does not cause significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.

(e) Roads

There is adequate road capacity available to serve the proposed special exception, and the proposed special exception use is designed to ensure safe ingress and egress onto the site and safe road conditions around the site.

(f) Not Injure Neighboring Land or Property Values

The proposed special exception will not substantially and permanently injure the use of neighboring land for those uses that are permitted in the zone district, or reduce property values.

(g) Site Plan

A site plan has been prepared that demonstrates how the proposed special exception use complies with the other standards of this subsection.

(h) Complies with All Other Relevant Laws and Ordinances

The proposed special exception use complies with all other relevant City laws and ordinances, state and federal laws, and regulations.

(5) Conditions of Approval

In approving a Special Exception Permit, the ZBA may impose appropriate conditions on the permit approval in accordance with Section 2-200(O), *Conditions of Approval*.

(6) Appeal

A person having a substantial interest affected by a decision of the ZBA on a Special Exception Permit may appeal from the decision of the ZBA to the Circuit Court in and for York County by filing with the Clerk of the Court a petition setting forth plainly, fully, and distinctly why the decision is contrary to law. The appeal shall be filed within thirty (30) days after the decision of the ZBA is mailed. For the purposes of this subsection, person includes persons jointly or severally aggrieved by the decision of the ZBA.

(7) Effect

Issuance of a Special Exception Permit shall authorize only the particular special exception that is approved in the permit. A Special Exception Permit, including any conditions, shall run with the land and shall not be affected by a change in ownership.

(8) Expiration

The approval of a Special Exception Permit shall be subject to the terms of Section 2-200, Expiration and Extension of Approval for Site Specific Development Plans.

~~(a) General~~

~~The ZBA may prescribe a time limit within which development activity shall begin or be completed on the Special Exception Permit, or both. Failure to begin and/or complete such development activity within the time limit specified shall void the Special Exception Permit. Unless specified otherwise by the ZBA, a Building Permit shall be obtained for the development approved by the permit within twelve (12) months from the date of approval, and development shall be completed on the Building Permit within the time allowed under the City's building regulations, or the Special Exception Permit shall expire and be void. In cases where a Building Permit is not required to establish an approved special exception use, a Certificate of Conformity (Section 2-300(P)) shall be obtained within twelve (12) months from the date of approval, or the Special Exception Permit shall expire and be void.~~

~~(b) Extension~~

~~Upon written application submitted at least thirty (30) days prior to the expiration of the permit period by the applicant, and upon a showing of good cause, the ZBA may grant one (1) extension not to exceed six (6) months. The approval shall be deemed extended until the ZBA has acted upon the request for extension. Failure to submit an application for an extension within the time limits established by this section shall result in the expiration of the Special Exception Permit.~~

(9) Amendments

A Special Exception Permit may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

2-300(E) Variance Permit

(1) Purpose

The purpose of a Variance Permit is to allow certain deviations from the standards of this Ordinance (such as height, yard setback, lot coverage, parking, landscaping, and signage standards), when the landowner demonstrates that, owing to 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), the literal application of the dimensional standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest.

(2) Authority

The ZBA is authorized to review and decide on a Variance Permit in accordance with this section.

(3) Procedures

(a) Application Submission, Review, Notification and Scheduling Hearing

The procedures and requirements for submission and review of an application are established in Section 2-200, *Common Procedures*.

(b) Review and Action by Board of Zoning Appeals

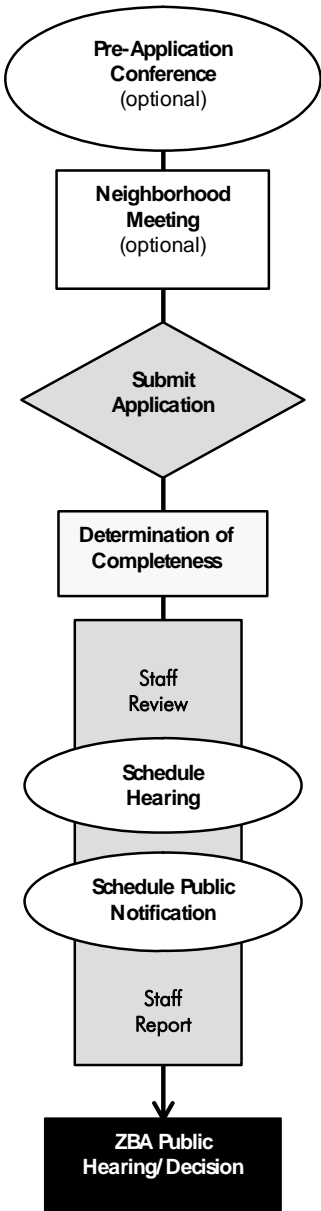
After preparation of a Staff Report, public notification, and the scheduling of a public hearing, the ZBA shall conduct a public hearing on the application in accordance with Section 2-200(N), *Public Hearing Procedures*. At the public hearing, the ZBA shall consider the application, the relevant support materials, the Staff Report, and the testimony given at the public hearing. After the close of the public hearing, the ZBA shall approve, approve with conditions, or deny the application based on the standards in Section 2-300(E)(4), *Variance Standards*.

(4) Variance Standards

(a) Findings

A Variance Permit shall be approved only upon a finding, made in writing, that the applicant demonstrates all of the following standards are met:

- 1. Extraordinary and Exceptional Conditions**
There are extraordinary and exceptional conditions (such as topographic conditions, narrowness, shallowness, or the shape of property) pertaining to the particular piece of land for which the



Variance Permit

variance is sought, that do not generally apply to other land or structures in the vicinity.

2. *Not Result of Action by Applicant*

The special circumstances are not the result of the actions of the applicant.

3. *Strict Application Deprives Use*

Because of the conditions in subsection 2-300(E)(4)(a)(1) above, the application of this Ordinance to the land would effectively prohibit or unreasonably restrict the utilization of the land and result in unnecessary and undue hardship.

4. *Minimum Variance*

The granting of the Variance Permit is the minimum action that will make possible the reasonable use of the land or structure which is not contrary to the public interest, and which would carry out the spirit of this Ordinance.

5. *Not Detrimental*

The authorization of the Variance Permit will not result in substantial detriment to adjacent land, and the character of the zone district in which the land subject to the application is located.

6. *Consistency with this Ordinance*

The granting of the Variance Permit will be generally consistent with the purposes and intent of this Ordinance.

(b) *Not Grounds for Variance*

The following do not constitute grounds for a Variance Permit:

1. *Nonconforming Use of Neighboring Lands*

The nonconforming use of neighboring lands, structures, or buildings in the same zone district that applies to the land for which the Variance Permit is sought.

2. *Property Could Be Utilized More Profitably*

The fact that land may be utilized more profitably should a Variance Permit be granted.

(c) *Prohibitions*

No Variance Permit shall be granted to:

1. Allow a use not permitted by right, Conditional Use Permit, or by Special Exception Permit in the district in which the land subject to the Variance Permit is located.

2. Extend physically a nonconforming use of land.

3. Change the zone district boundaries on the Official Zone District Map.

4. Establish, enlarge, or alter any use, structure, or characteristic of use that arises from or is necessitated by the approval of a Special Exception Permit.

(5) Conditions of Approval

In approving a Variance Permit, the ZBA may impose appropriate conditions on the permit approval in accordance with Section 2-200(O), *Conditions of Approval*.

(6) Appeal

A person having a substantial interest affected by a decision of the ZBA on a Variance Permit may appeal from the decision of the ZBA to the Circuit Court in and for York County by filing with the Clerk of the Court a petition setting forth plainly, fully, and distinctly why the decision is contrary to law. The appeal shall be filed within thirty (30) days after the decision of the ZBA is mailed. For the purposes of this subsection, person includes persons jointly or severally aggrieved by the decision of the ZBA.

(7) Recordation

The ZBA may require the applicant to record the Variance Permit with the York County Clerk of Court. The Variance Permit shall be binding upon the landowners, their successors, and assigns.

(8) Subsequent Development

Development authorized by the Variance Permit shall not be carried out until the applicant has secured all other permits required by this Ordinance or any other applicable provisions of the City. A Variance Permit does not ensure that the development approved as a variance shall receive subsequent approval for other applications for permit approval unless the relevant and applicable portions of this Ordinance or any other applicable provisions are met.

(9) Effect

Issuance of a Variance Permit shall authorize only the particular variance that is approved in the permit. A Variance Permit, including any conditions, shall run with the land and not be affected by a change in ownership. Land subject to an approved Variance Permit shall not be exempted from other relevant standards in this Ordinance which are unrelated to the standard being varied.

(10) Expiration

The approval of a Variance Permit shall be subject to the terms of Section 2-200, Expiration and Extension of Approval for Site Specific Development Plans.

~~(a) General~~

~~The ZBA may prescribe a time limit within which development activity shall begin or be completed on the Variance Permit, or both. Failure to begin and/or complete such development activity within the time limit specified shall void the Variance Permit. Unless specified otherwise by the ZBA, a Variance Permit shall automatically expire:~~

~~1. One (1) year from the date of its issuance if:~~

~~a. The development authorized by the permit has not commenced, and no substantial construction, alteration, demolition, excavation, or other similar work required by the permit is completed; or~~

~~b. Less than ten percent (10%) of the total amount of development approved as part of the permit is completed, when construction, alteration, demolition, excavation, or other similar work is required.~~

~~2.If the development approved by the Variance Permit is discontinued and not resumed for a period of one (1) year.~~

(b) Extension

~~Upon written application submitted at least thirty (30) days prior to the expiration of the permit period by the applicant, and upon a showing of good cause, the ZBA may grant one (1) extension not to exceed six (6) months. The approval shall be deemed extended until the ZBA has acted upon the request for extension. Failure to submit an application for an extension within the time limits established by this section shall result in the expiration of the Variance Permit.~~

(11) Amendment

A Variance Permit may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

2-300(F) Administrative Adjustments

(1) General

This section sets out the procedures and standards for Administrative Adjustments. Administrative Adjustments may be requested for the standards identified in Table 2-300(F), *Standards Subject to Administrative Adjustments*:

(2) Authority

The Development Services Director is authorized to review and approve, approve with conditions, or deny an application for an Administrative Adjustment in accordance with this section.

(3) Procedure

(a) Initial Submission of Application and Staff Review

The procedures and requirements for submission and review of an application are established in Section 2-200, *Common Procedures*.

(b) Review and Action by Development Services Director

The Development Services Director shall review and take action on the application in accordance with the procedures and requirements of Section 2-200(M), *Review by Development Services Director*.

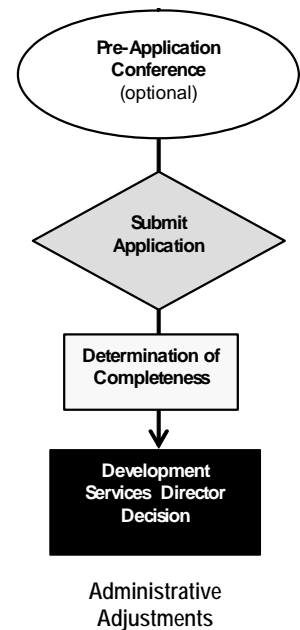


TABLE 2-300(F): STANDARDS SUBJECT TO ADMINISTRATIVE ADJUSTMENTS		
STANDARD	ALLOWABLE MODIFICATION	
	OLD TOWN	OUTSIDE OLD TOWN
Any numerical dimensional standard from Table 5-100(A), <i>Dimensional Standards in the Residential Zone Districts</i> , or Table 5-100(B), <i>Dimensional Standards in the Business Zone Districts</i>	Modify by up to 20%	Modify by up to 10%
Any required setback from Tables 5-100(A) or (B) to protect root zones of existing healthy trees retained on a site during and after construction		Modify by up to 20%

TABLE 2-300(F): STANDARDS SUBJECT TO ADMINISTRATIVE ADJUSTMENTS		
STANDARD	ALLOWABLE MODIFICATION	
	OLD TOWN	OUTSIDE OLD TOWN
Perimeter buffer width standard from Table 6-300(F)(1), <i>Buffer Classifications</i>	Modify by up to 20%	No reduction allowed
Building, parapet or appurtenance height limits in Table 5-100(B), <i>Dimensional Standards in the Business Zone Districts</i> , and described in section 5-200(D).	Modify by up to 10%	Modify by up to 25%
Minimum required number of off-street parking spaces from Table 6-100(D)(1), <i>Minimum Off-street Parking Standards</i>	Modify by up to 20%	Modify by up to by 5% (only to protect root zones of existing trees with 10 inch dbh or greater)
Minimum Connectivity Index score of 1.65 (Section 6-800(A)(2)(b)(1)(c))	Modify by up to 25%	Modify by up to 15%
Limitation on the maximum number of off-street parking spaces located between a primary building façade and the street it faces for: <ul style="list-style-type: none"> Commercial and public and institutional development in the OI, LC, CC, CG, PD-C, and PD-MEC districts (Section 6-800(C)(9)(a)(2)); or Large Retail Establishments (Section 6-800(D)(7)) 	Modify by up to 20%	
Requirement that no parking be located between a single-family dwelling and the street it fronts (Section 6-800(E), <i>Infill Design and Development Standards</i>)	Modify by up to 100% (reductions allowed to protect heritage trees or where space or topographic considerations prevent access to the rear of a lot)	N/A
Front and side yard setbacks for corner lots developed with Commercial or Public and Institutional Uses (Section 6-800(E), <i>Infill Design and Development Standards</i>)	Reduce to minimum of up to 5 feet	N/A
Maximum building footprint for Commercial and Public and Institutional Uses (Section 6-800(E), <i>Infill Design and Development Standards</i>)	Modify by up to 25%	N/A
Glazing standards for: <ul style="list-style-type: none"> Commercial and public and institutional uses (Section 6-800(C)(4)(b)(2)); or Primary ground floor front facade glazing standards for Large Retail Establishments (Section 6-800(D)(2)(b)(1)) 	Modify by up to 25%	

(4) Administrative Adjustment Standards

Administrative Adjustments shall be approved upon a finding the applicant demonstrates the following standards are met:

(a) General

The requested Administrative Adjustment is not inconsistent with the character of development in the surrounding area, and will not result in incompatible uses.

(b) Mitigates Adverse Impacts

Any adverse impacts resulting from the Administrative Adjustment will be mitigated to the maximum extent practicable.

(c) Technical Nature

The Administrative Adjustment is of a technical nature (i.e., relief from a dimensional or design standard), and is either:

1. Required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general;
2. Supporting an objective or goal from the purpose and intent statements of the zone district where located; or
3. Proposed to save healthy existing trees.

(d) Not Substantially Interfere with Convenient and Enjoyable Use of Adjacent Land

The Administrative Adjustment will not substantially interfere with the convenient and enjoyable use of adjacent lands, and will not pose a danger to the public health or safety.

(e) Adjustment to Glazing Standards

With respect to the glazing standards for commercial and public and institutional uses or Large Retail establishments:

1. The reduction in glazing is needed to address a unique circumstance related to building location, or unique topographic or physical feature;
2. The development exceeds the minimum façade massing standards; and
3. Additional architectural details are included on the façade to account for a decrease in glazing.

(f) Adjustment to Location of Off-Street Parking

With respect to the standards in the OI, CC, CG, PD-C, and PD-MEC districts for the location of off-street parking for commercial and public and institutional uses, or the location of off-street parking for any Large Retail establishment:

1. The re-location of off-street parking is required to adjust for an unusual physical aspect or natural feature on the site that is not shared by other landowners in general, or is required due to the unusual physical design of the development's buildings;
2. The re-location of the off-street parking is consistent with surrounding lands uses and development; and
3. For lots within Old Town only, the re-location of the off-street parking is consistent with the development patterns of surrounding lands uses and development.

(g) Connectivity Index

Adjustment to the minimum connectivity index score is allowable when it is demonstrated the landowner has attempted to develop a street design that complies with the connectivity index to the maximum extent practicable, but it reasonably impossible due to either:

1. Topographical or environmental conditions; or

2. The limited number of external connections to the site, and the physical features of the site.

(h) Building Height

An adjustment to building height in Business Zone Districts is allowable when:

1. The additional height is necessitated by a specific function of the building, or constraint of the site.
2. The building is setback from property lines at least one foot for every foot of height, and two feet for every foot of height when adjacent to a residential district.

(5) Conditions of Approval

In approving an Administrative Adjustment, the Development Services Director may grant a lesser modification than the maximum allowed by this section or requested by an applicant, and may impose appropriate conditions on the permit approval in accordance with Section 2-200(O), *Conditions of Approval*.

(6) Recordation

The Development Services Director may require the applicant to record the Administrative Adjustment with the York County Clerk of Court. The Administrative Adjustment shall be binding upon the landowners, their successors, and assigns.

(7) Subsequent Development

Development authorized by the Administrative Adjustment shall not be carried out until the applicant has secured all other permits required by this Ordinance or any other applicable provisions of the City. An Administrative Adjustment shall not ensure that the development receiving an Administrative Adjustment receives subsequent approval for other applications for development unless the relevant and applicable portions of this Ordinance or any other applicable provisions are met.

(8) Effect

Issuance of an Administrative Adjustment shall authorize only the particular Administrative Adjustment that is approved in the permit. An Administrative Adjustment, including any conditions, shall run with the land and not be affected by a change in ownership.

(9) Expiration

The approval of a Administrative Adjustment shall be subject to the terms of Section 2-200, Expiration and Extension of Approval for Site Specific Development Plans.

~~(a) General~~

~~The Development Services Director may prescribe a time limit within which development activity shall begin or be completed on the development subject to an Administrative Adjustment, or both. Failure to begin and/or complete such development activity within the time limit specified shall void the Administrative Adjustment. Unless specified otherwise by the Development Services Director, a Building Permit shall be obtained for the development approved by the permit within twelve (12) months from the date of approval of the Administrative Adjustment, and development shall be completed on the Building Permit within the time allowed under the City's building regulations, or the Administrative Adjustment shall expire and be void. In cases where a~~

~~Building Permit is not required to establish the use, a Certificate of Conformity (Section 2-300(P)) shall be obtained within twelve (12) months from the date of approval, or the Administrative Adjustment shall expire and be void.~~

(b) Extension

~~Upon written application submitted at least thirty (30) days prior to the expiration of the permit period by the applicant and upon a showing of good cause, the Development Services Director may grant one (1) extension not to exceed six (6) months. The approval shall be deemed extended until the Development Services Director has acted upon the request for extension. Failure to submit an application for an extension within the time limits established by this section shall result in the expiration of the Administrative Adjustment.~~

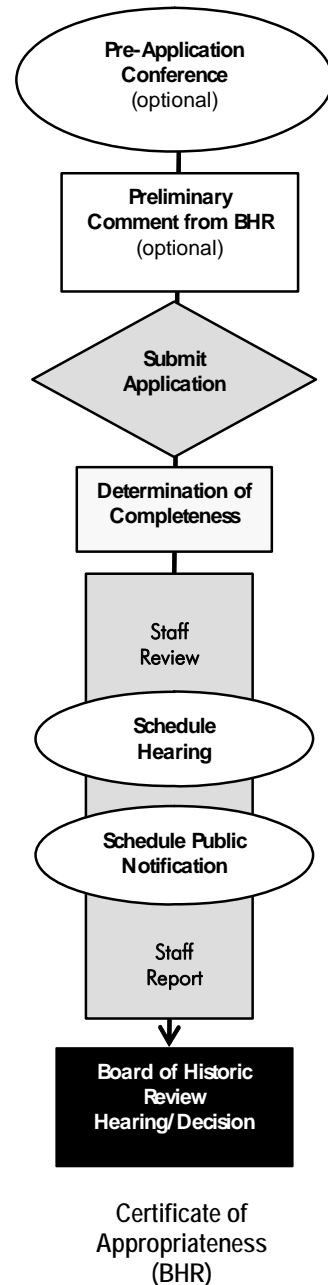
(10) Amendment
 An Administrative Adjustment may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

(11) Appeals
 An aggrieved party may appeal the decision of the Development Services Director's to the ZBA in accordance with Section 2-300(R), *Appeals to ZBA from Decisions and Interpretations of Development Services Director.*

2-300(G) Historic Districts and Historic Properties

(1) Certificate of Appropriateness
(a) Purpose
 The purpose of this section is to provide a mechanism for reviewing demolition, removal, new construction, additions, or alterations of exterior features on Historic Properties and structures within the Historic Overlay (YH) district to ensure they comply with the standards of this section and approved design standards.

(b) Authority
 1. *General*
 The Board of Historic Review (BHR) is authorized to review and decide applications for a Certificates of Appropriateness.
 2. *Development Services Director*
 a. The BHR may, by the promulgation of written guidelines, authorize and delegate to the Development Services Director, the authority to review and approve Certificates of Appropriateness for the repair and maintenance of any exterior building



feature, when such work exactly reproduces the existing design of the building or structure, and the same or closely similar materials are used.

- b. The Development Services Director is also authorized, in accordance with guidelines adopted by the BHR, to review and make decisions on applications for Certificates of Appropriateness for minor alterations or renovations.

(c) Applicability

1. *When Required*

A Certificate of Appropriateness shall be required prior to any demolition, removal, new construction, additions, or alterations of exterior features on Historic Properties or structures in the Historic Overlay (YH) district.

2. *Certificate of Appropriateness Not Required*

Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of structures designated as historic when the repair does not involve a change in design, material, color or outer appearance of the structure. Certificates of Appropriateness are not required for alterations to the interior of a building or alterations to the use of a building, unless the interior of a particular structure is specifically identified in the designation ordinance establishing an Historic Property or Historic Overlay (YH) district (Section 3-500(B)(2), *Historic Overlay (YH) District*, and Section 2-300(A), *Amendments to Text and Official Zone District Map (Rezone)*).

(d) Procedure

1. *BHR Review of Certificate of Appropriateness*

- a. Preliminary Comments : Prior to submitting an application for a Certificate of Appropriateness, a landowner may appear before the BHR to seek advice on matters pertaining to this section and Section 3-500(B)(2), *Historic Overlay (YH) District*.
- b. Application Submission and Review : The procedures and requirements for submission and review of an application are established in Section 2-200, *Common Procedures*.
- c. Review and Action by BHR :
After preparation of a Staff Report, public notification, and scheduling of a public hearing, the BHR shall conduct a public hearing on the application in accordance with Section 2-200(N), *Public Hearing Procedures*. At the public hearing, the BHR shall consider the application, the relevant support materials, the Staff Report, and the testimony given at the public hearing. After the close of the public hearing, the BHR shall, based on the standards in Section 2-300(G)(1)(e), *Certificate of Appropriateness Standards* take one (1) of the following actions:
 - i. Affirm the recommendation of the Development Services Director in the Staff Report;

- ii. Modify the recommendation of the Development Services Director in the Staff Report; or
- iii. Reverse the recommendation of the Development Services Director in the Staff Report;

2. *Development Services Director Review of Certificate of Appropriateness*

- a. Initial Submission of Application and Staff Review: The procedures and requirements for the Development Services Director’s review of an application in accordance with Section 2-300(G)(1)(b)(2) are established in Section 2-200, *Common Procedures*.
- b. Review and Action by Development Services Director :
The Development Services Director shall review and take action on the application in accordance with Section 2-200(M), *Review by Development Services Director*, and make a decision on the application based on the standards in Section 2-300(G)(1)(e), *Certificate of Appropriateness Standards*.
- c. Appeal to the BHR: The BHR shall hear appeals on decisions of the Development Services Director on Certificates of Appropriateness in accordance with Section 2-300(G)(6), *Appeal to BHR*.

(e) **Certificate of Appropriateness Standards**

The following standards shall be applied in determining whether to approve, approve with conditions, or deny a Certificate of Appropriateness.

- 1. *Affect Exterior Appearance*
Whether the proposed action will affect the exterior appearance of the subject land or structure or the appearance of any interior portion specifically identified in any relevant designation ordinance.
- 2. *Affect Consistent with Historical, Architectural, or Other Relevant Qualities*
Whether any such affect is consistent with the historical, architectural, or other qualities which the relevant designation ordinance seeks to protect and enforce.
- 3. *Negative or Positive Impact on Neighboring Lands of Historical Significance*
Whether the proposed action will have a negative or positive impact on neighboring lands that have historic significance.
- 4. *Complies with Design Review Guidelines Manual*
Whether the proposed Certificate of Appropriateness is in compliance with the City’s *Design Review Guidelines Manual*.

(f) **Conditions of Approval**

In approving a Certificate of Appropriateness, the BHR or Development Services Director, whichever is appropriate, may impose appropriate conditions on the permit approval in accordance with Section 2-200(O), *Conditions of Approval*.

(g) Appeal

Any aggrieved party objecting to a final decision of the BHR on a Certificate of Appropriateness may appeal the decision to the courts of South Carolina in accordance with S.C. Code of Laws Section 6-29-900.

(2) **Certificate of Hardship**

(a) **Purpose**

The purpose of this section is to provide a procedure for a landowner to gain relief who has a Certificate of Appropriateness denied, or believes it is not possible to comply with the standards for approval for a Certificate of Appropriateness.

(b) **General**

The BHR is authorized to review and decide applications for Certificates of Hardship.

(c) **Procedure**

1. *Application Submission, Review, Notification, and Scheduling Hearing*

The procedures and requirements for submission and review of an application are established in Section 2-200, *Common Procedures*.

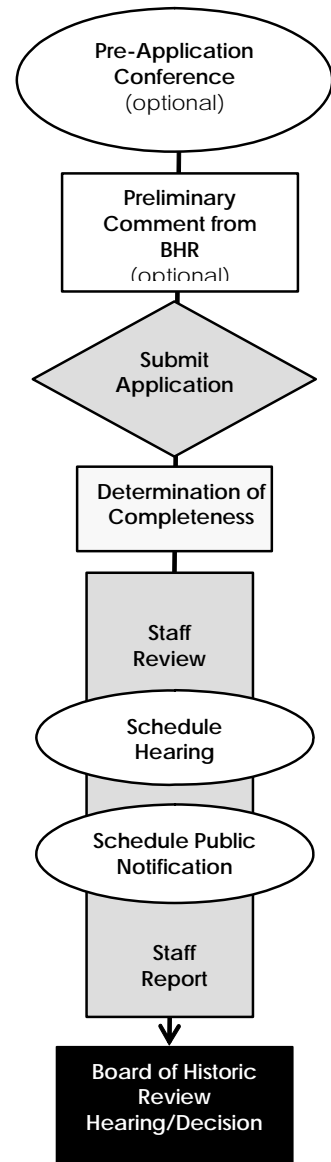
2. *Review and Action by BHR*

After preparation of a Staff Report, public notification, and the scheduling of a public hearing, the BHR shall conduct a public hearing on the application in accordance with Section 2-200(N), *Public Hearing Procedures*. At the public hearing, the BHR shall consider the application, the economic feasibility analysis, the relevant support materials, and the testimony given at the public hearing. After the close of the public hearing, the BHR shall approve, approve with conditions, or deny the application based on the standards in Section 2-300(G)(2)(e), *Hardship Standards*.

(d) **Economic Feasibility Analysis Required**

Any application for a Certificate of Hardship shall be accompanied by an Economic Feasibility Analysis prepared by a South Carolina Licensed or Certified Appraiser in accordance with the South Carolina Uniform Standards of Professional Appraisal Practice, and shall include all of the following:

1. An “as is” market value estimate of the structure(s) based upon the highest and best use of the site as improved;
2. An “after-rehabilitation” market value estimate of the structure(s) based upon the highest and best use of the site as improved;
3. A land value analysis based on the highest and best use of the site as vacant land regardless of whether the highest and best use of the site



Certificate of Hardship (BHR)

as vacant land differs from the highest and best use of the land as improved; and

4. A verifiable estimate of rehabilitation costs obtained from market sources, (e.g., an actual cost estimate from a licensed South Carolina contractor, data on actual costs experienced during rehabilitation of similar structures in the area, or information from contractors who are experienced in historic building rehabilitation/renovation).

(e) Hardship Standards

A Certificate of Hardship shall be approved only upon a finding that the economic feasibility analysis indicates that the “as-is” market value and rehabilitation costs exceed the “after-rehabilitation” market value by fifteen percent (15%) or more.

(f) Conditions of Approval

In approving a Certificate of Hardship, the BHR may impose appropriate conditions on the permit approval in accordance with Section 2-200(O), *Conditions of Approval*.

(g) Appeal

Any aggrieved party objecting to a final decision of the BHR on a Certificate of Hardship may appeal the decision to the York County Circuit Court in accordance with S.C. Code of Laws Section 6-29-900.

(3) Submission of New Application After Disapproval

If the BHR or Development Services Director denies a Certificate of Appropriateness or Certificate of Hardship, the applicant may, at any time, submit a new application with new information addressing the written reasons for disapproval.

(4) Expiration

(a) Site Specific Development Plans

Certificates of Appropriateness or Certificates of Hardship that affect the use, density or intensity of development such as building expansions, conversions to different uses or physical improvements related to such activities are considered site specific development plans and are subject to the terms of Section 2-200, Expiration and Extension of Approval for Site Specific Development Plans.

(a)(b) General

On Certificates not deemed to be site specific development plans as defined above, The the BHR or Development Services Director (whichever approved the permit) may prescribe a time limit within which development activity or demolition shall begin or be completed (or both) on the Certificate of Appropriateness or Certificate of Hardship. Failure to begin and/or complete such activity within the time limit specified shall result in the expiration of the Certificate. Unless specified otherwise by the BHR or Development Services Director (whichever approved the permit), the approved activity shall occur within twelve (12) months from the date of approval, or the Certificate shall immediately expire and be void.

(b)(c) Extension

Upon written application submitted at least thirty (30) days prior to the expiration of the Certificate of Appropriateness or Certificate of Hardship by the applicant, and upon a showing of good cause, the BHR or Development Services Director (whichever approved the permit) may grant one (1)

extension not to exceed six (6) months. The approval shall be deemed extended until the BHR or Development Services Director (whichever approved the permit) has acted upon the request for extension. Failure to submit an application for an extension within the time limits established by this section shall result in the expiration of the Certificate.

(5) Amendment

A Certificate of Appropriateness or Certificate of Hardship may be amended, extended or modified only in accordance with the procedures and standards established for its original approval.

(6) Appeal to BHR

(a) General

The BHR shall hear appeals made by any aggrieved party by a decision of the Development Services Director with regards to a decision on a Certificate of Appropriateness or any other matter related to the administration of this section and Section 3-500(B)(2), *Historic Overlay (YH) District*, by filing a written appeal with the Development Services Director within ten (10) business days of the decision. The appeal shall specify the grounds for the appeal.

(b) Procedures

The procedures for appeal are the same as those established in Section 2-300(R), *Appeals to ZBA from Decisions and Interpretations of the Development Services Director*, except the appeal shall be heard by the BHR instead of the ZBA.

2-300(H) Site Plan

(1) Purpose

Site Plan review is required to ensure that the layout and general design of proposed development is compatible with surrounding uses and complies with: Article 6: *Development and Design Standards*, Article 7: *Subdivision Standards*, this Ordinance, and all other applicable City regulations.

(2) Applicability

All development, unless exempted in accordance with Section 2-300(H)(3), *Exemptions*, shall be required to have either a Minor Site Plan or a Major Site Plan approved in accordance with this section prior to issuance of a Building Permit.

(3) Exemptions

The following development shall be exempted from the requirements of this section (but are not exempted from Section 2-300(O), *Zoning Permit*, and Section 2-300(P), *Certificate of Conformity*):

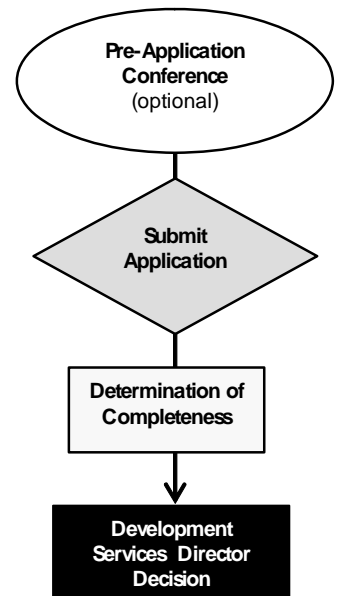
(a) Single-Family Development

Single-family development on a single lot.

(b) Two-Family Development

Two-family dwelling development on a single lot.

(c) Internal Construction



Minor Site Plan

Internal construction that does not increase gross floor area, increase the density or intensity of use, or affect parking requirements.

(4) Minor Site Plan

(a) Applicability

The following development, unless exempted in accordance with Section 2-300(H)(3), *Exemptions*, constitutes a Minor Site Plan, and shall be reviewed in accordance with this section.

1. *Residential Development*
Multiple family, townhouse, two- to four-family, single-family attached, and Group Living uses of less than twenty-five (25) units.
2. *Non-residential Development*
Non-residential development of less than twenty thousand (20,000) square feet.

(b) Authority

The Development Services Director is authorized to review and approve, approve with conditions, or deny a Minor Site Plan.

(c) Procedures

1. *Submission and Review of Application*
The procedures and requirements for submission and review of a Minor Site Plan are established in Section 2-200, *Common Procedures*.
2. *Action by Development Services Director*
The Development Services Director shall review and take action on the application for a Minor Site Plan in accordance with the procedures and requirements of Section 2-200(M), *Review by Development Services Director*, and based on the standards in Section 2-300(H)(6), *Site Plan Standards*.
3. *Successive Applications*
Any subsequent development on or adjacent to land subject to a Minor Site Plan under the same ownership which is intended to expand, share, or be a part of the development approved as part of the Minor Site Plan shall be reviewed as a Major Site Plan in accordance with Section 2-300(H)(5), *Major Site Plan*.

(5) Major Site Plan

(a) Applicability

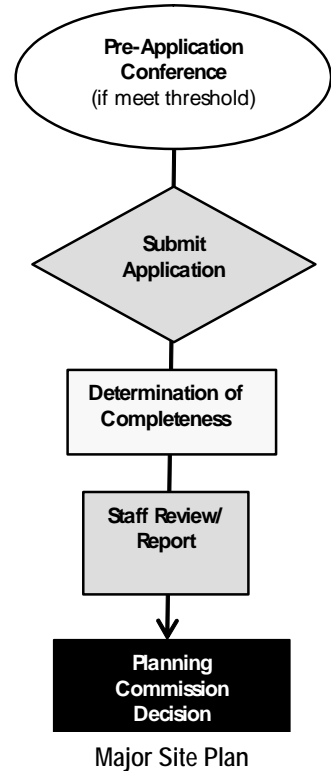
The following development, unless exempted in accordance with Section 2-300(H)(3), *Exemptions*, constitutes a Major Site Plan, and shall be reviewed in accordance with this section.

1. *Residential Development*
Multiple family, townhouse, two- to four-family, single-family attached, and Group Living uses of twenty-five (25) units or more.
2. *Non-residential Development*
Non-residential development of twenty thousand (20,000) square feet or more.

(b) **Authority**
 The Planning Commission is authorized to review and approve, approve with conditions, or deny a Major Site Plan.

(c) **Procedures**

1. **Submission and Review of Application**
 The procedures and requirements for submission and review of a Major Site Plan are established in Section 2-200, *Common Procedures*.
2. **Review and Action by Planning Commission**
 After receipt of a Staff Report on a Major Site Plan application from the Development Services Director, the Planning Commission shall review and consider the application, the relevant support materials, the Staff Report, and any comments given at the meeting. The Planning Commission shall approve, approve with conditions, or deny the application based on the standards in Section 2-300(H)(6), *Site Plan Standards*.



(6) **Site Plan Standards**
 A Site Plan shall be approved only upon a finding the applicant demonstrates all of the following standards are met:

(a) **Use Allowed in Zone District**
 The use is allowed in the zone district in accordance with Table 4-100(B), *Table of Allowed Uses*.

(b) **Zone District Use-Specific Standards**
 The development and uses in the Site Plan comply with Section 4-300, *Use-Specific Standards*.

(c) **Development and Design Standards**
 The development proposed in the Site Plan and its general layout and design comply with all appropriate standards in Article 6: *Development and Design Standards*.

(d) **Subdivision Standards**
 The development proposed in the Site Plan and its general layout and design comply with all appropriate standards in Article 7: *Subdivision Standards*.

(7) **Conditions of Approval**
 In approving a Site Plan, the Planning Commission or the Development Services Director (whichever approved the Site Plan), may impose appropriate conditions on the permit approval in accordance with Section 2-200(O), *Conditions of Approval*.

(8) Expiration**(a) *General***

~~The approval of a Site Plan shall be subject to the terms of Section 2-200, Expiration and Extension of Approval for Site Specific Development Plans. The Planning Commission or Development Services Director (whichever approved the Site Plan) may prescribe a time limit within which development activity shall begin or be completed, or both. Failure to begin and/or complete such development within the time specified shall void the Site Plan. Unless specified by the Planning Commission or the Development Services Director (whichever approved the Site Plan), a Site Plan approval shall automatically expire at the end of twelve (12) months after the date of its issuance if a Building Permit for at least one (1) building in the development proposed in the Site Plan is not approved. A change in ownership of the land does not affect this time frame.~~

~~(b) *Extension*~~

~~Upon written application submitted at least thirty (30) days prior to the expiration of the permit period by the applicant and upon a showing of good cause, the Planning Commission or the Development Services Director (whichever approved the Site Plan) may grant one (1) extension not to exceed six (6) months. The approval shall be deemed extended until the Planning Commission or the Development Services Director (whichever approved the Site Plan) has acted upon the request for extension. Failure to submit an application for an extension within the time limits established by this section shall render the Site Plan void.~~

(9) Amendments

A Site Plan may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

2-300(I) Subdivision**(1) Purpose**

The purpose of this section and Article 7: *Subdivision Standards*, are to promote the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of the City by:

(a) *Orderly Growth and Development*

Providing for the orderly growth and development of the City.

(b) *Coordinating Streets and Roads with City's Planned Street System and Other Public Facilities*

Coordinating streets and roads within proposed subdivisions with the City's planned street system, and with other public facilities.

(c) *Right-of-Way for Streets and Utilities*

Providing right-of-way easements for streets and utilities.

(d) *Avoiding Congestion and Overcrowding*

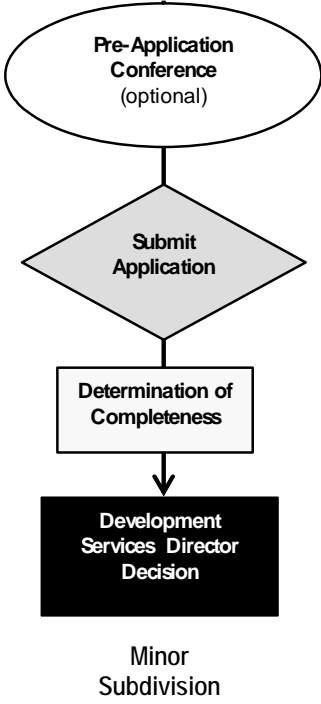
Avoiding congestion and overcrowding, and encouraging the proper arrangement of streets in relation to existing or planned streets.

(e) *Open Space and Recreation Facilities*

Ensuring there is adequate open space and recreation facilities to serve development.

- (f) **Proper Land Records**
Ensuring there is proper recordation of landownership records.
- (g) **Protect Health, Safety, and Welfare**
Ensuring the provision of such other matters as the City Council may deem necessary in order to protect the general health, safety, and welfare of the City.
- (2) **Applicability**
- (a) **General**
The following development, unless exempted in accordance with Section 2-300(l)(3), *Exemptions*, is required to have land subdivided in accordance with the procedures and standards of this section prior to the transfer of title or sale of any lots, or the issuance of a building permit for development.
1. The division of land into two (2) or more lots, building sites, or other divisions for the purpose of immediate or future sale, lease, or building development;
 2. All divisions of land involving a new street or change in existing streets;
 3. Re-subdivision involving the further division or relocation of lot lines of any lot or lots within an already approved subdivision; and
 4. The combination or consolidation of lots of record.
- (b) **Overview of Development Permits Required**
Every subdivision of land is classified as either (1) a Minor Subdivision, or (2) a Major Subdivision. A Minor Subdivision or Final Plat for Subdivision shall be approved for any subdivision prior to the transfer of title or sale of any lots for the land subject to subdivision.
- (3) **Exemptions**
The following development shall be exempt from the requirements of this section:
- (a) **Combination or Recombination of Previously Platted Lots**
The combination or recombination of portions of previously platted lots where the total number of lots is not increased, and where the Development Services Director determines there are no significant changes to or encroachment upon the public street systems required, and where the lot sizes comply with the standards set forth in the zone district where the land is located.
- (b) **Land For Widening or Opening Streets**
The public acquisition by purchase of strips of land for the widening or opening of new streets.
- (c) **Partition of Land by Court**
The partition of land by Court decree.
- (4) **Minor Subdivision**
- (a) **General**
The minor subdivision procedure shall be utilized for the subdivision of land into fewer than four (4) lots when:

- 1. *No New Streets, Alleys, or Other Public Ways*
No new streets, alleys, or other public ways are created.
- 2. *No Changes to Existing Streets, Alleys, or Other Public Ways*
No changes are made to the existing rights-of-way of any streets, alleys, or other public ways.
- 3. *No New Utilities*
No new utilities are required to serve the subdivided land.
- 4. *Complies with Article 7: Subdivision Standards*
The division of land complies with the standards of Article 7: *Subdivision Standards*.
- 5. *No Flag Lots in Residential Zone District*
No flag lot is created in a residential district that is inconsistent with existing development patterns.
- 6. *Lots Have Direct Access to Public Street*
The lots have direct access onto a public street that has been accepted for maintenance by the appropriate agency.



(b) Procedure

- 1. *Initial Submission of Application and Staff Review*
The procedures and requirements for submission and review of an application are established in Section 2-200, *Common Procedures*.
- 2. *Review and Action by Development Services Director*
The Development Services Director shall review and take action on the application for Minor Subdivision in accordance with Section 2-200(M), *Review by Development Services Director*.

(c) Standards

A Minor Subdivision shall be approved on a finding the application complies with the standards in Article 7: *Subdivision Standards*, all other relevant provisions of this Ordinance, and all other relevant City ordinances and regulations.

(d) Recordation

The subdivider shall file an approved Plat for Minor Subdivision with the York County Clerk of Court for recording within ten (10) days after the date of approval or the approved plat shall expire.

(e) Amendments

A Plat for Minor Subdivision may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

(f) **Successive Applications**

Any subsequent subdivision of land already subject to a Minor Subdivision approval shall be in accordance with Section 2-300(I)(5), *Major Subdivision*.

(5) **Major Subdivision**

(a) **Applicability**

The standards and procedures of this subsection shall apply to all subdivision of land not exempted in accordance with Section 2-300(I)(3), *Exemptions*, or considered a Minor Subdivision in accordance with Section 2-300(I)(4), *Minor Subdivisions*.

(b) **Preliminary Plat**

1. *General*

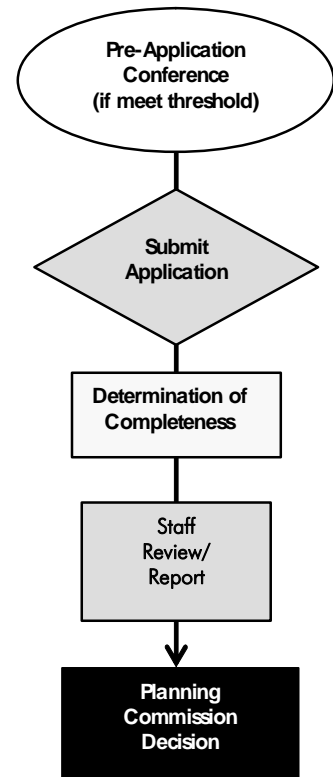
A Preliminary Plat for Subdivision establishes the general layout and design for the subdivision. Upon the approval of a Preliminary Plat for Subdivision, detailed plans for street construction, utility line installations, and similar approvals shall be included in Detailed Construction Plans (Section 2-300(I)(5)(c)), and then on an Intermediate Field Survey Plat (Section 2-300(I)(5)(d)). Once an Intermediate Field Survey Plat is approved, construction can begin. Building Permits may not be issued before approval of a Final Plat for Subdivision.

2. *Application Review*

The procedures and requirements for submission and review of an application for a Preliminary Plat for Subdivision are established in Section 2-200, *Common Procedures*.

3. *Review and Action by Planning Commission*

The Development Services Director shall refer the Staff Report on the Preliminary Plat for Subdivision to the Planning Commission on the date the application is being considered at a regularly scheduled meeting. At the meeting, the Planning Commission shall consider the application, the relevant support materials, the Staff Report, and any comments given during the meeting. During the meeting, the Planning Commission shall approve, approve with conditions, or deny the Preliminary Plat for Subdivision based on the standards in Section 2-300(I)(5)(b)(4), *Preliminary Plat Standards*. The Planning Commission shall act on the application for Preliminary Plat for Subdivision within sixty (60) days of the application's referral from the Development Services Director (unless a longer review period is agreed upon between the Planning Commission and subdivider).



Preliminary Subdivision Plat

4. *Preliminary Plat for Subdivision Standards*

A Preliminary Plat for Subdivision shall be approved upon a finding the application complies with the standards in Article 7: *Subdivision Standards*, all other relevant provisions of this Ordinance, and all other relevant City ordinances and regulations.

5. *Conditions*

In approving a Preliminary Plat for Subdivision, the Planning Commission may impose appropriate conditions on the permit approval in accordance with Section 2-200(O), *Conditions of Approval*.

6. *Effect of Approval*

Approval of a Preliminary Plat for Subdivision shall constitute approval of the development with the general lot shapes and alignments of streets identified on the Preliminary Plat. Approval of a Preliminary Plat for Subdivision allows the subdivider to proceed to the Detailed Construction Plan and Intermediate Field Survey Plat phases of subdivision approval (see Section 2-300(I)(5)(c) and (d)). Approval of a Preliminary Plat for Subdivision allows the subdivider to apply for a Grading Permit (Section 2-300(K)) necessary for construction of streets and public utilities. Approval of a Preliminary Plat for Subdivision does not constitute approval of a Final Plat for Subdivision. The Preliminary Plat for Subdivision shall run with the land.

7. *Expiration*

The approval of a Preliminary Plat shall be subject to the terms of Section 2-200, Expiration and Extension of Approval for Site Specific Development Plans.

~~a. The approval of a Preliminary Plat for Subdivision shall expire at the end of twelve (12) months from the date approval was granted by the Planning Commission unless the applicant has:~~

~~i. Received approval of Detailed Construction Plans for a portion of the Preliminary Plat;~~

~~ii. Received approval of an Intermediate Field Survey Plat for a portion of the Preliminary Plat; and~~

~~iii. Begun construction of all or a portion of the required public improvements.~~

~~b.a. In the event a Final Plat for Subdivision for all or a portion of the Preliminary Plat for Subdivision is not applied for within five (5) years of the original approval date of the Preliminary Plat for Subdivision, the City may require that the Preliminary Plat, Detailed Construction Plans, and Intermediate Field Survey Plat be amended and updated to comply with all standards in effect at the time of its re-review.~~

~~8. *Extension*~~

~~Upon written application submitted at least thirty (30) days prior to the expiration of the permit by the applicant and upon a showing of good cause, the Planning Commission may grant one (1) extension not to exceed six (6) months. The approval shall be deemed extended until~~

~~the Planning Commission has acted upon the request for extension. Failure to submit an application for an extension within the time limits established by this section shall render the Preliminary Plat for Subdivision void.~~

9.8. Amendment

A Preliminary Plat for Subdivision may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

(c) Detailed Construction Plans

1. General

Within twelve (12) months of the approval of the Preliminary Plat for Subdivision, Detailed Construction Plans shall be approved in accordance with this section. Detailed Construction Plans are engineered drawings depicting the precise design, location, and profile of all public facilities proposed for development of the subdivision, including, but not limited to streets, street markings, street signs, sidewalks, public pedestrian pathways or trails, potable water lines, sanitary sewer lines, public utility meter locations, storm drains, fire suppression systems, and locations of conduit crossings for private utilities.

2. Initial Submission of Application and Staff Review

The procedures and requirements for submission and review of an application for Detailed Construction Plans are established in Section 2-200, *Common Procedures*.

3. Review and Action by Development Services Director

The Development Services Director shall review and take action on the Detailed Construction Plans in accordance with Section 2-200(M), *Review by Development Services Director*.

4. Detailed Construction Plan Standards

Detailed Construction Plans shall be in substantial conformance with the approved Preliminary Plat for Subdivision (Section 2-300(I)(5)(b)), the standards in Article 7: *Subdivision Standards*, and City Construction Standards.

5. Effect of Approval

Approval of Detailed Construction Plans allows a subdivider to proceed with preparation of an Intermediate Field Survey Plat (see Section 2-300(I)(5)(d)). An application for approval of an Intermediate Field Survey Plat may be submitted concurrently with Detailed Construction Plans, but may not be approved prior to approval of Detailed Construction Plans.

6. Amendment

Detailed Construction Plans may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

(d) Intermediate Field Survey Plat

1. General