

CHAPTER 2: ADMINISTRATION

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CHAPTER 2: ADMINISTRATION

17-200 ADMINISTRATIVE AND DECISION-MAKING BODIES

(A) General

Table 17-200(A) summarizes the role of the administrative and decision-making bodies with regard to development review procedures for the different types of development approvals and permits in this chapter.

TABLE 17-200(A): POWERS AND DUTIES OF ADMINISTRATIVE AND DECISION-MAKING BODIES					
S=Staff Review R=Review and Advise D=Final Decision A=Appeal					
Development Permit	Board of County Commissioners	Planning Commission	Planning Director	Development Review Committee	County Engineer
Amendment to Text of Code	D	R	S		
Amendment to Zone District Map (Rezoning)	D	R	S		
Amendment to Zone District Map to a PD District	D	R	S	R	
Major Conditional Use Permit	D	R	S	R	
Minor Conditional Use Permit	A	D	S	R	
Variance		D	S		
Administrative Adjustment		A	D		
Minor Subdivision		A	D		
Preliminary Subdivision Plat		A	D	R	
Final Subdivision Plat		A	D	R	
Temporary Use Permit			D		
Special Event Permit			D		
Home Occupation Permit			D		
Sign Permit			D		
Fence Permit			D		
Soil and Sedimentation Control Permit/Grading Permit					D
Change, Continuation, or Enlargement of Nonconformity		D	S		
Interpretations on Zoning		A	D		
Interpretations on Subdivision		A	D		
Appeals from Decisions and Determinations of Planning Director		A			
Appeals from Decisions by the Planning Commission on Appeal	D				

TABLE 17-200(A): POWERS AND DUTIES OF ADMINISTRATIVE AND DECISION-MAKING BODIES					
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Beneficial Use Determination	D				

(B) Board of County Commissioners

(1) Powers and Duties

In addition to any authority granted the Board of County Commissioners (BOCC) by the Constitution of Georgia, the Code of Georgia, or otherwise, the BOCC shall have the following powers and duties under this Code:

a. Amendments to Text and Zoning District Map

To review, hear, consider, and approve, approve with conditions, or disapprove:

1. Text Amendments

Applications to amend the text of this Code (Text amendment) (Sec. 17-202(B)).

2. Zoning District Map Amendments (Rezoning)

Applications to amend the Zoning District Map (Sec. 17-202(B)).

b. Planned Development District (PD) Classification

To review, hear, consider, and approve, approve with conditions, or disapprove applications for Preliminary Development Plans for PD and amendments to the Zoning District Map to a Planned Development District (PD) classification (Sec. 17-202(C)).

c. Beneficial Use Determination

To review and make determinations on requests for Beneficial Use Determinations (Sec. 17-202(P)).

d. Major Conditional Use Permit

To review, hear, consider, and approve, approve with conditions, or disapprove applications for Major Conditional Use Permits (Sec. 17-202(D)(2)).

e. Appeals – Minor Conditional Use Permit

To hear and decide appeals from decisions by the Planning Commission on applications for Minor Conditional Use Permit (Sec. 17-202(D)(3)).

f. Appeals – Decisions and Determinations

To hear and decide appeals from decisions by the Planning Commission on appeal from decisions of the Planning Director or any other official in the administration or enforcement of this Code (Sec. 17-202(O)).

g. Enforcement

To enforce the provisions of this Code, including delegation of enforcement responsibilities to County staff.

h. Other

To take any other action not delegated to the Planning Commission, Development Review Committee, heads of county departments, or the Planning Director, as the BOCC may deem desirable and necessary to implement the provisions of this Code.

(C) Planning Commission

(1) Powers and Duties

In addition to the powers and duties established by the Georgia Constitution, the Code of Georgia, or otherwise, the Planning Commission shall have the following powers and duties under this Code:

a. Amendments to Text and Zoning District Map

To review, hear, consider, and make recommendations to the BOCC to approve, approve with conditions, or disapprove:

1. Text Amendments

Applications to amend the text of this Code (Text amendments) (Sec. 17-202(B)).

2. Zoning District Map Amendments (Rezoning)

Applications to amend the Official Zoning District Map (Sec. 17-202(B)).

b. Planned Development

To review, hear, consider, and make recommendations to the BOCC to approve, approve with conditions, or disapprove Preliminary Development Plans for PD and amendments to the Zoning District Map to a Planned Development District (PD) classification (Sec. 17-202(C)).

c. Major Conditional Use Permit

To review, hear, consider, and make recommendations to the BOCC to approve, approve with conditions, or disapprove applications for Major Conditional Use Permits (Sec. 17-202(D)(2)).

d. Minor Conditional Use Permit

To review, hear, consider, and approve, approve with conditions, or disapprove applications for Minor Conditional Use Permits (Sec. 17-202(D)(3)).

e. Variance

To review, hear, consider, and approve, approve with conditions, or disapprove applications for Variances (Sec. 17-202(E)).

f. Administrative Adjustment

To hear and decide appeals from decisions of the Planning Director on applications for Administrative Adjustments (Sec. 17-202(F)).

g. Preliminary Subdivision Plats

To hear and decide appeals from decisions of the Planning Director on applications for Preliminary Subdivision Plats (Sec. 17-202(G)(3)).

h. Final Subdivision Plats

To hear and decide appeals from decisions of the Planning Director on applications for Final Subdivision Plats (Sec. 17-202(G)(4)).

i. Minor Subdivision Plats

To hear and decide appeals from decisions of the Planning Director on applications for Minor Subdivision Plats (Sec. 17-202(G)(2)).

j. Change, Continuation, or Enlargement of Nonconformities

To review, hear, consider, and approve, approve with conditions, or disapprove applications for Change, Continuation, or Enlargement of Nonconformity (Sec. 17-202(M)).

k. Appeals from Interpretations

To hear and decide appeals from Interpretations by the Planning Director (Sec. 17-202(N)).

l. Appeals – Other

To hear and decide appeals from decisions of the Planning Director on any other matter under the Planning Director’s purview for which an appeal is not otherwise provided under this Code.

m. Make Special Knowledge and Expertise Available

To make its special knowledge and expertise available upon written request and authorization of the BOCC to any official, department, board, commission, or agency of the county.

(2) Membership

a. Number

The Planning Commission shall consist of five (5) members.

b. Qualifications

All members shall be residents of the county.

c. Appointment

Each member in office at the effective date of this Code shall continue in office for the remainder of his or her term. Thereafter, each member shall be appointed by the BOCC.

d. Term

The term of office of the members of the Planning Commission shall be four (4) years, with January 31 being the expiration date for each term, or the date a successor is appointed, whichever is later. The appointment of a member shall be made so as to substantially coincide with the term of the member of the BOCC recommending the appointment.

e. Attendance at Meetings

The unexcused absence of any member from three consecutive regular meetings without prior notice to the Chairperson of the Planning Commission or the staff

office serving the Planning Commission shall terminate that member's appointment.

f. **Resignation**

Any member who resigns from the Planning Commission prior to the end of the member's term shall do so in writing to the Chairperson of the BOCC. [New]

g. **Removal**

Members shall be removed for cause by the BOCC upon written charges and after a public hearing.

h. **Filling of Vacancy**

Any vacancy occurring for reasons other than the expiration of a term shall be filled for the period of the unexpired term in the same manner as the original appointment.

i. **Compensation**

Members shall receive compensation as approved by the Board of County Commissioners.

(3) **Officers**

a. **General**

The officers of the Planning Commission are the Chairperson, Vice-Chairperson, and Secretary. The Chairperson and Vice-Chairperson shall be elected by the Planning Commission from among its members. The Planning Commission shall appoint the Secretary, who may be an officer or employee of the county. [Revised]

b. **Term of Office**

The term of office for the officers shall be one year, with eligibility for re-election or re-appointment. The term shall begin at the close of the meeting at which the election or appointment is held. No member shall hold more than one office. An officer may hold over a term until a successor is elected or appointed by the Commission.

c. **General Duties of Officers**

1. The Chairperson shall preside at all meetings of the Planning Commission. The Chairperson shall decide all points of order on procedure, and shall take such action as shall be necessary to preserve the order and integrity of all proceedings before the Commission. [New]
2. In the absence of the Chairperson, the Vice-Chairperson shall act as Chairperson and shall have all powers of the Chairperson. [New]
3. In the absence of the Chairperson and Vice-Chairperson, the most senior Planning Commission member shall act as Chair and shall have all the powers of the Chairperson. [New]

(4) **Meetings**

a. **General**

Meetings of the Planning Commission shall be held at the call of the Chairperson and at such other times as the Commission may determine.

b. Quorum**1. Quorum Necessary for Business**

No meeting of the Commission shall be called to order, nor may any business be transacted by the Commission without a quorum present consisting of three (3) members. A majority vote of the quorum present shall constitute an official action or decision of the Planning Commission.

2. Loss of Quorum

If at any time during a public meeting or public hearing a quorum is lost, it shall be stated in the minutes and no final action on the matters before the Commission shall be taken during the time that a quorum is not present. [New]

c. Conduct of Meetings

The Chairperson, or in the Chairperson's absence the acting Chairperson, may administer oaths. [New]

d. Open to Public

All meetings shall be open to the public except those specifically authorized to be closed under the Open Meetings Act, Code of Georgia §§ 50-14-1 through 50-14-6.

(5) Staff

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

(6) Rules and Records**a. Records****1. General**

The Planning Commission shall keep minutes of its proceedings, showing each official action with the full text of the motion or question and record of the vote of each member upon each motion or question or, if absent or abstaining from a vote, indicating such fact.

2. Maintenance of Records

The Planning Commission shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Planning Director and shall be a public record.

b. Adoption of Additional Rules

The Planning Commission shall, by a majority vote of the entire membership, adopt additional rules of procedure.

(D) County Staff**(1) Planning Director****a. General**

A Planning Director shall be designated by the County Administrator to administer and enforce this Code.

b. Powers and Duties

In addition to the powers and duties that may be conferred by other provisions of the Official Code of Hall County and other laws, the Planning Director shall have the following powers and duties under this Code:

1. To review and approve, approve with conditions, or disapprove applications for Administrative Adjustments (Sec. 17-202(F)).
2. To review and approve, approve with conditions, or disapprove applications for Minor Subdivisions (Sec. 17-202(G)).
3. To review and approve, approve with conditions, or disapprove Preliminary Subdivision Plats (Sec. 17-202(G)).
4. To review and approve, approve with conditions, or disapprove Final Subdivision Plats (Sec. 17-202(G)).
5. To review and approve, approve with conditions, or disapprove applications for Temporary Use Permits (Sec. 17-202(H)).
6. To review and approve, approve with conditions, or disapprove applications for Home Occupation Permits (Sec. 17-202(I)).
7. To review and approve, approve with conditions, or disapprove applications for Fence Permits (Sec. 17-202(J)).
8. To review and approve, approve with conditions, or disapprove applications for Sign Permits (Sec. 17-202(K)).
9. To make determinations and render interpretations of this Code on matters related to zoning (Sec. 17-202(N)).
10. To make determinations and render interpretations of this Code on matters related to subdivision (Sec. 17-202(N)).
11. To establish application requirements and schedules for review of applications and appeals, to review and make recommendations to the BOCC and Planning Commission on applications for development approvals, and take any other action necessary to administer the provisions of this Code.
12. To cooperate with the Enforcement Division to enforce the provisions of this Code in accordance with Chapter 9: *Enforcement and Remedies*.
13. To report to the Planning Commission on a regular basis regarding decisions on applications over which the Planning Director has review and decision-making authority, including summary reports of decisions on applications for Administrative Adjustments (Sec. 17-202(F)).
14. To maintain the Official Zoning District Map and other such records and official materials as relate to the adoption, amendment, enforcement, or administration of this Code.

15. To provide expertise and technical assistance to the BOCC and Planning Commission, upon request.

(2) **Development Review Committee**

a. ***Background***

The Development Review Committee (DRC) shall be an intergovernmental entity including representatives from the county departments and other affected local and State agencies that shall review and make recommendations on applications for Planned Developments, Major Conditional Use Permits, Minor Conditional Use Permits, Minor Subdivisions, and Preliminary Subdivision Plats.

b. ***Powers and Duties***

The DRC shall have the following powers and duties under this Code:

1. ***Planned Development District Classification***

To review, consider, and make recommendations to the Planning Commission and BOCC to approve, approve with conditions, or disapprove applications for Preliminary Development Plans for Planned Development and amendments to the Official Zoning District Map for Planned Development District classifications (Sec. 17-202(C)).

2. ***Major Conditional Use Permits***

To review, consider, and make recommendations to the Planning Commission and BOCC to approve, approve with conditions, or disapprove applications for Major Conditional Use Permits (Sec. 17-202(D)(2)).

3. ***Minor Conditional Use Permits***

To review, consider, and make recommendations to the Planning Commission to approve, approve with conditions, or disapprove applications for Minor Conditional Use Permits (Sec. 17-202(D)(3)).

4. ***Preliminary and Final Subdivision Plat***

To review, consider, and make recommendations to the Planning Director to approve, approve with conditions, or disapprove applications for Preliminary Subdivision Plats (Sec. 17-202(G)(3)) and Final Subdivision Plats (Sec. 17-202(G)(4)).

c. ***Membership***

The DRC shall consist of staff members from each of the departments and agencies involved in the review and approval of applications for development approval, as necessary for an adequate review, including but not limited to Planning and Zoning, Engineering, and Environmental Health.

d. ***Chairperson***

The Planning Director or his designee shall serve as the Chairperson of the DRC. The Chairperson shall be in charge of all proceedings before the DRC and shall take such action as shall be necessary to procure the order and the integrity of the proceedings before the DRC.

e. ***Rules of Procedure***

The DRC may, by a majority vote of the entire membership, adopt rules and regulations governing its procedure as it may consider necessary or advisable.

(3) County Engineer

In addition to the jurisdiction, authority, and duties that may be conferred on the County Engineer by other provisions of this Code or general law, the County Engineer shall have the following jurisdiction, powers, and duties under this Code:

- a. To review and approve, approve with conditions, or disapprove applications for Soil and Sedimentation Control Permits (Sec. 17-202(L)).

(4) County Attorney

In addition to the jurisdiction, authority, and duties that may be conferred upon the County Attorney by other provisions of this Code or general law, the County Attorney shall have the following jurisdiction, powers, and duties under this Code:

a. General

To review and approve as to form all written findings of fact, conclusions of law, development approvals and permits, ordinances, and other documents drafted by the county departments, BOCC, Planning Commission, Planning Director, and County Engineer in connection with any requirement of this Code.

b. Agreements, Easements, Performance Agreements

To review as to form all development agreements, planned development agreements, easements, declarations of covenants, letters of credit, performance bonds, or such other documentation in connection with any requirement of this Code.

c. Counsel

To counsel the BOCC, Planning Commission, Planning Director, County Engineer, and county departments in regard to the legal issues that may arise in the review of applications for development approval and the general implementation of this Code.

(5) Enforcement Division

The Enforcement Division of Hall County, in addition to the jurisdiction, authority, and duties that may be conferred on it by Chapter 2.30 of the Official Code of Hall County, other provisions of this Code, or general law, shall have the following jurisdiction, powers, and duties under this Code:

a. Enforcement

Implementing enforcement of the provisions of this Code, working with the Planning Director and City Engineer as necessary.

(6) Hearing Officer

a. Creation and Appointment

The BOCC shall confirm one or more Hearing Officers to hear and consider such matters as may be required to be conducted by a Hearing Officer under any provision of this Code or as may be determined to be appropriate. Such Hearing Officer(s) shall serve at the pleasure of the BOCC for such period as is determined by the BOCC. The Hearing Officers shall be compensated at a rate to be determined by the BOCC. Whoever shall accept an appointment as a

Hearing Officer shall, for a period of one year from the date of termination as holder of such office, not act as agent or attorney in any proceeding, application or other matter before any decision-making body of the county in any matter involving land that was the subject of a proceeding which was pending during the time served as a Hearing Officer.

b. *Minimum Qualifications*

A Hearing Officer shall have the following minimum qualifications:

1. *Professional Experience*
Demonstrated knowledge of administrative, zoning, and land use planning law and procedures.
2. *No Appointive or Elective Office*
Hold no other appointive or elective public office or position in the county during the period of appointment.

c. *Powers and Duties*

A Hearing Officer shall have the following duties:

1. *Beneficial Use Determination*
To conduct hearings on appeals for Beneficial Use Determinations and recommend proposed orders to the BOCC (Sec. 17-202(P)).
2. *Subpoenas, Production of Documents and Oaths*
To issue subpoenas to compel the attendance of witnesses and production of documents, and to administer oaths to witnesses appearing at hearings.
3. *Other*
To perform such other tasks as the BOCC may assign.

17-201 COMMON REVIEW PROCEDURES

The general provisions of Secs. 17-201(A)-(T) shall apply to all applications for development approval and permit requests under this Code, unless otherwise stated.

The provisions of Sec. 17-201(T) and not those of Secs. 17-201(A)-(T) shall apply to the following applications for development approval and permit requests: Minor Subdivisions, Temporary Uses/Structures and Special Events; Fence Permits; Home Occupation Permits; Sign Permits; and Administrative Adjustments.

(A) Authority to File Applications

(1) Applications for Development Approval

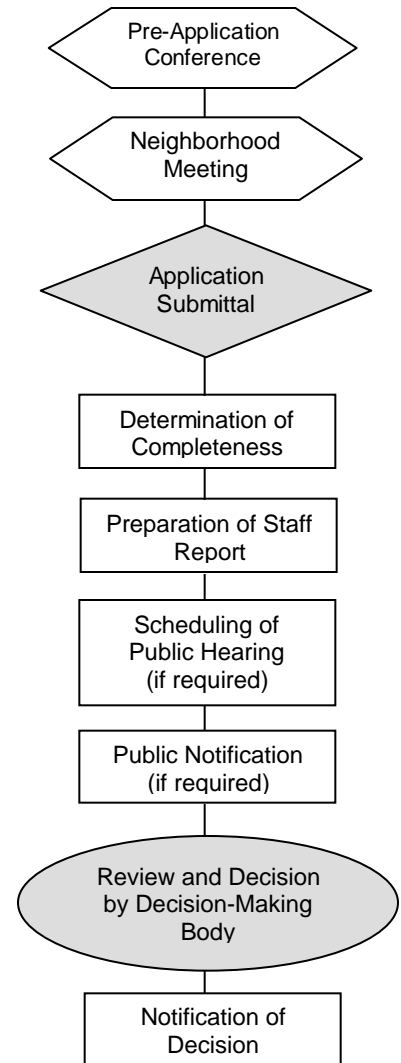
All applications required pursuant to this Code shall be submitted to the Planning Director by the land owner, or any other person having a recognized legal or equitable interest in the land upon which the development is proposed, or their authorized agent.

- (2) **Applicant Not the Owner**
If the applicant is not the owner of the land, or is a contract purchaser of the land, an affidavit signed by the owner consenting to the submission of the application shall be submitted.
- (3) **Applicant Is Not the Sole Owner**
If the applicant is not the sole owner of the land, an affidavit signed by the other owners or an entity representing the owners consenting to or joining in the application shall be submitted.

(B) Application Contents, Submission Schedule, and Fees

(1) Establishment of Application Requirements, Schedule, and Fees

- a. **Application Contents and Form**
The Planning Director shall establish requirements for the content and form of all applications for development approval and shall amend and update those requirements from time to time.
- b. **Submission Schedule**
The Planning Director shall establish a submission schedule for applications for development approval, which shall be reviewed and approved by the Planning Commission. The schedule shall establish deadlines by which complete applications must be submitted for the purpose of ensuring that required public notification can occur in a timely manner, that county staff have adequate time to review applications, and that the various stages in the review process, such as required pre-application conferences and public hearings, are accommodated.
- c. **Fees**
 - 1. The BOCC shall establish application fees and may amend and update the fees from time to time.
 - 2. Refund of application fees upon the withdrawal of an application shall be as follows: On applications requiring a public hearing, seventy-five (75) percent of the fee shall be refunded upon withdrawal within one week and prior to public notification; after public notice has occurred, no refund shall be made. On applications only requiring administrative review, a refund shall be made upon request accompanying formal withdrawal on any application deemed incomplete, minus a processing fee of fifty dollars



**General Overview
of Common Review
Procedures**

(\$50). Once an application is deemed complete and review has commenced, no refund shall be made.

(2) Administrative Manual

For applications required under this Code, the Planning Director shall compile the application requirements, submission schedule, and fees in a Hall County Unified Development Code Administration Manual, which shall be made available to the public.

(C) Pre-Application Conference

(1) Applicability

A pre-application conference is mandatory prior to submission of any application for approval of an Amendment to the Zoning District Map (Rezoning), Planned Development, Major Conditional Use Permit, Minor Conditional Use Permit, and Preliminary Plat for Subdivision. A pre-application conference is optional prior to submission of any other application for development approval under this Code.

(2) Purpose

The purpose of a pre-application conference is to familiarize the county staff with the proposed development, identify provisions of this Code that are applicable to the proposed development, and inform the applicant about submittal requirements and review procedures.

(3) Effect

Discussions that occur during a pre-application conference are not binding on the county and do not constitute official assurances or representations by Hall County or its official regarding any aspects of the plan(s) discussed. Processing times for review of applications do not begin until a formal application is submitted and accepted.

(4) Mandatory Pre-Application Conference

Any applicant requesting approval of an Amendment to the Zoning District Map (Rezoning), a Planned Development, Major Conditional Use Permit, Minor Conditional Use Permit, or Preliminary Plat for Subdivision shall request a pre-application conference orally or in writing from the Planning Director. The Planning Director may request that the applicant provide a sketch or concept plan of the proposed development, and any other supporting information or documents the Planning Director deems necessary for the pre-application conference, such as a description of the character, location, and magnitude or scale of the proposed development.

a. Meeting

1. The Planning Director shall schedule a pre-application conference within a reasonable time after receipt of the request. Based on the size and type of request, the Planning Director will request the attendance of County staff or other agencies considered necessary for a productive pre-application conference.

2. At the pre-application conference the applicant, County staff and the Planning Director shall discuss the proposed development and, based upon the information provided by the applicant, identify in general what Code provisions apply to the proposed development. If the proposed development is likely to trigger Development of Regional Impact review under Chapter 110-12-3, Rules of Georgia Department of Community Affairs, the Planning Director shall inform the applicant of that fact. The

county staff shall generally inform the applicant regarding necessary application materials and provide estimates of the timing of review. The county staff is not authorized to make any binding commitments, assurances, or representations at the pre-application conference.

b. *Written Summary of Pre-Application Conference (Optional)*

Within a reasonable period of time after completion of the pre-application conference meeting, the Planning Director shall mail to the applicant a written summary of the comments made at the meeting, if in the opinion of the Planning Director such a written summary is necessary.

(5) *Optional Pre-Application Conference*

Any potential applicant for a development approval not requiring a pre-application conference may request an optional pre-application in accordance with to the procedures in Sec. 17-201(C)(4). The procedures for the optional pre-application conference shall be the same as those described in Secs. 17-201(C)(4)a and b for a mandatory pre-application conference.

(D) *Neighborhood Meetings*

(1) *General*

The purpose of the neighborhood meeting is to educate neighbors about the proposed development and application, receive neighborhood comments, address concerns about the development proposal, and resolve conflicts and outstanding issues, where possible. The neighborhood meeting is an informal procedure intended to facilitate communication and promote information sharing and shall not have the effect of a decision on any matter at issue. The outcome of a neighborhood meeting shall have no binding effect on any county board, agency, or official, nor shall it create legal rights.

(2) *Applicability*

Neighborhood meetings are required for applications for development approval involving the approval of a conditional use or rezoning of land for subdivision that will result in the creation of twenty (20) or more lots; the approval of a conditional use or rezoning of land for development of non-residential uses totaling twenty thousand (20,000) square feet or more of gross floor area; or any approval of conditional use or rezoning where new lots or uses will be solely accessed by routes that pass through an existing residential neighborhood. The Planning Director may require an applicant to conduct a neighborhood meeting for smaller proposals if the Planning Director determines an application is likely to generate significant controversy or cause a major adverse impact on neighboring lands, roads, or public facilities. The Planning Director may waive the neighborhood meeting requirement if the Planning Director determines that a proposed development will have no significant adverse impact upon surrounding properties or that the proposed use is so similar to surrounding uses that a neighborhood meeting is unwarranted.

(3) *Recommended Practice*

Neighborhood meetings are encouraged as opportunities for informal communication among landowners, applicants, and residents who may be affected by development proposals. Where neighborhood meetings are not required under this Code, they are encouraged, especially prior to submission of applications requiring a public hearing. An application may be submitted prior to the neighborhood meeting.

(4) Waiver

The Planning Director may waive the Neighborhood Meeting if the Planning Director determines that there is no need for the meeting. The Planning Director may also authorize individual contact of landowners or citizens in the area by the applicant in lieu of a Neighborhood Meeting if five (5) or fewer landowners or citizens in the area would be notified pursuant to Sec. 17-201(D)(5)b.

(5) Procedure

If a neighborhood meeting is held by the applicant, it shall generally comply with the following procedures.

a. *Time and Place*

The neighborhood meeting shall be held at least one week prior to any scheduled public hearing. It shall be scheduled on a weekend or after 5:00 p.m. on a weekday and shall be held at a place that is generally accessible to neighbors that reside in close proximity to the land subject to the application.

b. *Notification*

The applicant shall provide notification of the neighborhood meeting a minimum of ten (10) calendar days in advance of the meeting by mail to all landowners within one hundred (100) feet of the land subject to the application, and to any established neighborhood organization that represents citizens within that notification area.

c. *Conduct of Meetings*

At the neighborhood meeting, the applicant shall present and explain the development proposal and application, answer any questions, and respond to concerns neighbors have about the application and proposed ways to resolve conflicts.

d. *Staff Attendance*

County staff may attend the neighborhood meeting for the purpose of advising the attendees regarding applicable provisions of this Code, but shall not act as facilitators or become involved in negotiations at the neighborhood meeting.

(6) Failure to Hold Neighborhood Meeting Delays Hearing

If the applicant fails to hold a required neighborhood meeting, the application shall be automatically tabled at the Planning Commission for up to 30 days. If the applicant fails to hold the neighborhood meeting during that time, the application shall be considered withdrawn. When a neighborhood meeting is held, the lack of specific compliance with the provisions of this section shall not, in itself, invalidate the proceedings on an application for development approval or constitute a basis for legal action.

(E) Application Submission

Applications shall be submitted to the Planning Director pursuant to the application submittal schedule (Sec. 17-202(B)(1)b)) in the form established by the Planning Director (Sec. 17-202(B)(1)a), along with a fee established pursuant to Sec. 17-202(B)(1)c.

(F) Determination of Completeness

(1) Completeness Review

Within five (5) working days of receipt of an application for development approval, the Planning Director shall determine if the application is complete. A complete application is one that:

- a. Contains all the information and materials established by the Planning Director as required for submittal of the particular type of application, pursuant to Sec. 17-200(D)(1)b.11 and Sec. 17-201(B)(1)a.;
- b. Is in the form established by the Planning Director as required for submittal of the particular type of application, pursuant to Sec. 17-200(C)(1)a and Sec. 17-201(B)(1)a.;
- c. Includes information in sufficient detail to evaluate the application to determine whether it complies with the appropriate substantive requirements of this Code; and
- d. Is accompanied by the fee established for the particular type of application pursuant to Sec. 17-201(B)(1)c.

In the case of applications for development approval that do not require a public hearing and are reviewed administratively by the Planning Director, the completeness determination may consist of the acceptance of a pre-prepared form which has been authorized by the Planning Director and submitted by the applicant, on which all requested information has been provided, and to which all required documentation is appended.

(2) Application Incomplete

If it is determined the application is incomplete, the Planning Director shall send written notice to the applicant of the specific deficiencies within five (5) working days of submittal. The applicant may correct the deficiencies and resubmit the application for completeness determination. No further action shall be taken on the application until the deficiencies are remedied. If the applicant fails to respond to the identified deficiencies within forty-five (45) calendar days, the application shall be considered withdrawn and shall be subject to the provisions of Secs. 17-201(P)(4) and (5).

(3) Application Complete

When the application is determined to be complete, it shall be reviewed pursuant to the procedures and standards of this section, and, pursuant to Sec. 17-201(H), if the application is subject to a public hearing, the Planning Director shall place the matter on the agenda of the next meeting at which it may be timely heard under the requirements of this Code.

(G) Preparation of Staff Report

(1) Applications Subject to Public Hearing

When an application for development approval is subject to a public hearing (see Sec. 17-201(I)(5): Required Notice and Timing), after the application is determined to be complete, the Planning Director shall refer the application to the appropriate staff and any other review agencies for comment, review the application, and prepare a written Staff Report. The Staff Report shall be mailed to the applicant and made available to the

public no less than five (5) calendar days before the first scheduled public hearing on the application. The Staff Report shall be addressed to the reviewing body or bodies and shall state whether the application complies with all appropriate standards of this Code. The Staff Report shall include a recommendation that the reviewing body approve, approve with conditions, or disapprove the application. Conditions for approval may also be recommended to eliminate any areas of noncompliance or to mitigate any adverse effects of the development proposal.

(2) Administratively Reviewed Applications

When an application for development approval is not subject to a public hearing but is reviewed administratively by the Planning Director, preparation of a Staff Report shall be optional at the discretion of the Planning Director. If the Planning Director determines that a Staff Report is necessary, it shall be done in accordance with Sec. 17-201(G)(1), except that it shall be addressed to the applicant, shall be provided to the applicant, shall be made available to the public after the decision is rendered in accordance with Sec. 17-201(M), Notification of Decision, and shall include a determination that the application is approved, approved with conditions, or disapproved.

(H) Scheduling Public Hearings

(1) Application To Be Scheduled for Meeting

When an application for development approval is subject to a public hearing (see Sec. 17-201(I)(5): Required Notice and Timing), the Planning Director shall ensure that the public hearing(s) on the application is (are) scheduled for a regularly scheduled meeting or a meeting specially called for that purpose by the decision-making or advisory body reviewing the application.

(2) Timing

The public hearing(s) on the application shall be scheduled so there is sufficient time for a Staff Report to be prepared and for the public notification requirements to be satisfied.

(3) Public Hearings

- a. The county shall conduct at least two (2) public hearings for all applications for Text Amendments, Amendments to the Zoning District Map, Planned Development Districts, and Major Conditional Use Permits. One public hearing shall be conducted by the Planning Commission and one public hearing shall be conducted by the BOCC.
- b. The county shall conduct one (1) public hearing for all applications for Minor Conditional Use Permits, Variances, Appeals, and Beneficial Use Determinations.

(I) Public Notification

All applications requiring public hearing(s) shall comply with the Code of Georgia, the table in this Sec. 17-201(I)(5): Required Notice and Timing, and the other provisions of this section with regard to public notification.

(1) Content

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

- a. Identify the application or application number and date of filing, and the name, address, and telephone number of the applicant or the applicant's agent (except posted notice).
- b. Indicate the date, time, place, and purpose of the public hearing.
- c. Describe the location of the subject property by street address or by legal description and nearest street intersection, and estimated area (size) (except posted notice).
- d. Identify the present zoning district designation(s) of the subject property.
- e. Identify the proposed zoning district designation(s) of the subject property.
- f. Describe in general the nature, scope, and purpose of the application or proposal, including proposed uses, densities/intensities, activities, and the area of land in acres that will be affected (except posted notice).
- g. Describe in which department the application, the Staff Report, and related materials may be inspected by the public, and state that these materials are available for public inspection during normal business hours.
- h. Include a statement describing when and where interested members of the public and adjoining property owners may submit written comments or evidence prior to the public hearing.
- i. Include a statement that interested members of the public and adjoining property owners may appear at the public hearing, be heard, and submit evidence and written comments with respect to the application.

(2) Written (Mailed) Notice

When the provisions of this Code (see Sec. 17-201(l)(5)) require that written or mailed notice be provided, the Planning Director shall be responsible for preparing and mailing the written notice. Notice shall be mailed to:

- a. All property owners of the land subject to the application;
- b. The applicant, if other than the property owner; and
- c. All property owners adjoining the land subject to the application whose address is known by reference to the latest records of the board of tax assessors.

Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The county shall prepare an affidavit with a list of property owners to whom notice was mailed based upon the ad valorem tax records, with affirmance that notice meeting the content requirements of Sec. 17-201(l)(1) was mailed. The affidavit shall be conclusive that notice has been given pursuant to the terms of this subsection. The affidavit shall be kept on file in the Planning Department and made available for inspection at the public hearing(s). Notice of an incomplete application need be mailed only to the property owner(s) or applicant.

(3) Published Notice

- a. When the provisions of this Code require that notice be published, the Planning Director shall be responsible for preparing the content of the notice and publishing the notice in a newspaper of general circulation in the county.
- b. The Planning Director shall prepare an affidavit certifying that published notice has occurred pursuant to the requirements of this subsection. The affidavit and a copy of the published notice shall be kept on file in the Planning Department and made available for inspection at the public hearing(s).

(4) Posted Notice

- a. When the provisions of this Code require that notice be posted on the land subject to the application, notice shall comply with the following requirements:
 - 1. Notice shall be posted on sign(s) in a form established by the Planning Director.
 - 2. The signs shall be placed by the applicant on the property that is subject to the application, in a conspicuous location along each public thoroughfare that abuts or runs through the property. Where the land does not have frontage on a public thoroughfare, signs shall be erected in a conspicuous location along the nearest public thoroughfare with an attached notation indicating generally the direction and distance to the land subject to the application.
 - 3. The sign(s) shall be placed so that they are clearly visible to passers-by.
- b. The applicant shall sign and provide to the Planning Director an affidavit stating that posted notice has been provided in accordance with the requirements of this subsection. The affidavit shall be conclusive that notice has been given in accordance with the terms of this subsection. The affidavit shall be kept on file in the Planning Department and made available for inspection at the public hearing(s).
- c. The applicant is responsible for maintaining posted notice on the property until the completion of the public hearing(s) on the application.
- d. The sign(s) shall be removed by the applicant within fifteen (15) days after the final decision on the application.

(5) Required Notice and Timing

Unless otherwise expressly provided in the Code of Georgia or this Code, notice shall be provided as follows:

Application for Development Permit or Other Action	Notice Required (days before hearing/action)		
	Written (Mailed) (Sec. 17-201(l)(2))	Published (Sec. 17-201(l)(3))	Posted (Sec. 17-201(l)(4))
Amendment to Text of Code	None	At least 15 but not more than 45 days prior to public hearing	None
Amendment to Zoning District Map (Rezoning)	At least 15 but not more than 45 days prior to public hearing	At least 15 but not more than 45 days prior to public hearing	At least 15 days prior to public hearing

Application for Development Permit or Other Action	Notice Required (days before hearing/action)		
	Written (Mailed) (Sec. 17-201(I)(2))	Published (Sec. 17-201(I)(3))	Posted (Sec. 17-201(I)(4))
Amendment to Zoning District Map (Planned Development)	At least 15 but not more than 45 days prior to public hearing	At least 15 but not more than 45 days prior to public hearing	At least 15 days prior to public hearing
Major Conditional Use Permit	At least 15 but not more than 45 days prior to public hearing	At least 15 but not more than 45 days prior to public hearing	At least 15 days prior to public hearing
Minor Conditional Use Permit	At least 15 but not more than 45 days prior to public hearing	At least 15 but not more than 45 days prior to public hearing	At least 15 days prior to public hearing
Variance	At least 15 but not more than 45 days prior to public hearing	At least 15 but not more than 45 days prior to public hearing	At least 15 days prior to public hearing
Administrative Adjustment	At least 7 days but not more than 45 days before the decision	None	At least 7 days prior to the decision
Minor Subdivision	None	None	None
Preliminary Subdivision Plat	None	None	None
Final Subdivision Plat	None	None	None
Change, Continuation, or Enlargement of Nonconformities	At least 15 but not more than 45 days prior to public hearing	At least 15 but not more than 45 days prior to public hearing	At least 15 days prior to public hearing
Appeals	- from a decision on an application subject to a public hearing	At least 15 but not more than 45 days prior to public hearing	At least 15 but not more than 45 days prior to public hearing
	- from a decision on an application not subject to a public hearing	Same as was required for the decision being appealed	Same as was required for the decision being appealed
Beneficial Use Determination	At least 15 but not more than 45 days prior to public hearing	At least 15 but not more than 45 days prior to public hearing	At least 15 days prior to public hearing

(J) Review by Planning Director

When an application for development approval is not subject to a public hearing but is reviewed administratively by the Planning Director, it shall be reviewed in accordance with the following procedures.

(1) Staff Report

Preparation of a Staff Report is optional at the discretion of the Planning Director and, if prepared, shall be governed by Sec. 17-201(G)(2).

(2) Review

- a. The Planning Director shall review the application and determine whether the application complies with the applicable criteria for review.
- b. The Planning Director shall complete the review as expeditiously as possible, but no longer than the time period specified in the specific permit procedures unless in the Planning Director's discretion unusual circumstances or impacts warrant additional time for review. The Planning Director shall advise the applicant if additional time for review is necessary.

- (3) Decision**
The Planning Director shall render a decision in accordance with the procedures specified in this chapter for the specific type of development approval.

(K) Public Hearing Procedures

All public hearings for applications held pursuant to this Code shall comply with the following procedures.

(1) Conduct of Public Hearing

a. *Burden of Proof or Persuasion*

The burden of demonstrating that an application complies with applicable review and approval standards of this Code is on the applicant. The burden is not on the county or other parties to show that the standards have not been met by the applicant.

b. *Rights of All Persons*

Any person may appear at a public hearing and submit evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall be identified, state an address, and if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented.

c. *Exclusion of Testimony*

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

d. *Time Period for Presentation*

A minimum of ten minutes shall be provided for the presentation of data, evidence, and opinion by proponents of each application. A minimum of ten minutes shall also be provided for the presentation of data, evidence, and opinion by opponents of each application. At the Chairperson's discretion, the time period may be extended.

e. *Continuance of Public Hearing*

For good cause, and with consideration to the convenience of the applicant, adjacent property owners, and other interested parties, as well as the availability of potential witnesses, the body conducting a public hearing for which proper notice was given may continue the public hearing, provided the continuance is set for a date within forty-five (45) days, and the date, time, and place of the continued hearing are announced at the time of the continuance. Continuance of a public hearing at the request of an applicant shall be governed by the provisions of Sec. 17-201(N), Deferral of Application.

(2) General Procedures and Findings at Public Hearing

a. *Timing of Action*

The body conducting the hearing shall act in accord with any time limits established in this Code. Action shall be taken as promptly as possible in consideration of the interests of the applicant and the citizens of the county, and shall include a statement of a recommendation or decision of approval, approval with conditions, or disapproval (whichever is appropriate).

b. Form of Decisions

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

1. *Summary of Information*
A summary of the information presented before the decision-making body.
2. *Summary of Evidence in Record*
A summary of documentary evidence submitted into the record.
3. *Statement of Rationale*
A statement of the rationale for the decision.
4. *Recommendation or Decision*
A statement of a recommendation or decision of approval, approval with conditions, or disapproval (whichever is appropriate).

(L) Conditions of Approval

(1) General

Where a reviewing board or county official may, according to the express terms of this Code, approve a permit or development approval with conditions, such board or official may impose restrictions and conditions on the approval, the proposed use, and the premises to be developed or used pursuant to such approval, as are required to ensure compliance with the general goals and policies of this Code or with particular standards of this Code, or to prevent, ameliorate, or minimize adverse effects from the proposed development on surrounding lands. In addition, when reviewing any application for a conditional use or temporary or accessory use, the reviewing board or county official may impose a time limit requiring that the activity or use be terminated and/or removed within a reasonable time, or that a new hearing be held within a stated period of time before the expiration of the current approval to consider the extension of the approval of such use.

(2) Conditions

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.

(M) Notification of Decision

Within a reasonable time after a decision on an application, the Planning Director (or Commission Clerk, on actions by the BOCC) shall notify the applicant by mail of the decision. At least three (3) days after mailing the notification of decision to the applicant, a copy of the decision shall also be made available to the public at the offices of the Planning Director during normal business hours.

(N) Deferral of Application

(1) When Applicant May Request

At one time during the consideration of an application by all required bodies, an applicant may request that an advisory or decision-making bodies' consideration of an application at a public hearing be deferred to a date of the body's choosing. The preferred method of requesting deferral shall be submittal of a written request for deferral to the Planning

Director a minimum of five (5) days prior to the public hearing on the application. An oral request for deferral may be made at the public hearing..

(2) Review Board Decision

A deferral request as allowed above shall be approved by the advisory or decision-making body reviewing the application. If deferred to a date beyond the next scheduled meeting of the body, notice of the hearing at which the matter shall be taken up shall be given as for the original hearing in accordance with the requirements of Sec. 17-201(I)(5). The date, time, and place of the public hearing at which the application will be heard shall be announced at the time the deferral is granted by the advisory or decision-making body.

- (3)** Nothing in this section shall preclude the advisory or decision-making body from continuing a public hearing or otherwise deferring action on an application in its own discretion, in accordance with section 17-201(K)(1) e. and other applicable provisions of this Code.

(O) Changes to Application After Notice of Public Hearing

After notice of public hearing has occurred, changes to an application (including changes to an application at the public hearing) not made solely to satisfy staff or reviewing body recommendations or conditions shall be governed by the provisions of this section.

(1) Major Changes

No substantive changes may be made in major elements of the proposal relating to uses, densities, intensities, and/or access without referral of the application as amended back to staff for evaluation and preparation of a Staff Report pursuant to Sec. 17-201(G) and to any other relevant advisory or decision-making bodies in the same manner as required for the original submittal of the application.

(2) Conditions and Development Standards

Proposed conditions and development standards, and changes in conditions and development standards, may be considered without referral back to staff or other relevant advisory or decision-making bodies, provided the changes do not constitute a major substantive change in the proposal in the determination of the body with decision-making authority over the application.

(P) Withdrawal of Application

(1) Submission of Request

Any request for withdrawal of an application shall be submitted in writing to the Planning Director.

(2) Prior to Notice of Public Hearing

The Planning Director shall approve a request for withdrawal of an application if it has been submitted prior to notification of a public hearing on the application pursuant to Sec. 17-201(I), Public Notification.

(3) Subsequent to Notice of Public Hearing

Once notice of a public hearing has occurred pursuant to Sec. 17-201(I), Public Notification, the request for withdrawal of the application shall be placed on the public

hearing agenda and acted upon by the advisory or decision-making body. The advisory or decision-making body shall approve the request for withdrawal for good cause.

(4) Refund of Fees

Only withdrawal requests that are submitted prior to public notification pursuant to Sec. 17-201(l) are eligible for refund, in accordance with Sec. 17-201(B)(1)c.

(5) Effect of Withdrawal

If an applicant's request for withdrawal is submitted after any public hearing is held, no application for approval of the same or substantially the same proposal concerning the land shall be considered for a period of six months from the date of withdrawal.

(Q) Examination and Copying of Application/Other Documents

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

(R) Simultaneous Processing of Applications

Whenever two or more forms of review and approval are required under this Code, the applications for those development approvals may, at the request of the applicant and at the option of the Planning Director, be processed simultaneously, so long as all applicable state and local requirements are satisfied.

(S) Lapse of Approval

(1) General

Lapse of approval (also referred to herein as "expiration") shall occur as provided by this Code for the various types of development permits and approvals. If no provision for lapse is given by this Code for a particular type of development permit or approval, and if no lapse period is imposed as part of an approval by the reviewing entity, lapse shall occur if substantial steps toward development (such as substantial expenditures or groundbreaking) is not commenced or a subsequent permit is not obtained within one year.

(2) Extension

For any permit or approval for which the specific standards and requirements (Sec. 17-202) allow an extension, the procedure for extension shall be as follows.

a. Application for Extension

A written application shall be submitted by the applicant to the Planning Director any time prior to the lapse of the permit period. An extension may be granted not to exceed one (1) year or the time period stated in the procedures for the specific development approval type in Sec. 17-202, whichever is less. The permit or approval shall be deemed extended until the applicable reviewing entity or official has acted upon the request for extension, but no other permits may be granted after the original expiration date unless the extension is granted. Failure to submit an application for an extension within the time limits established by this section shall render the permit or approval void.

b. Decision on Application for Extension

The decision regarding the extension of a permit or approval shall be made by the same entity or official with review and decision-making authority for that type of permit or approval. The extension may be granted upon a showing of good cause. In granting an extension, the reviewing body or official may require that the development comply with development standards adopted since the original application was submitted.

(T) Abbreviated Review Procedure for Certain Applications

The abbreviated review procedure of this Sec. 17-201(T) shall apply to the following applications for development approval and permit requests under this Code: Minor Subdivisions, Temporary Uses/Structures and Special Events; Fence Permits; Home Occupation Permits; Sign Permits; and Administrative Adjustments. The other general provisions of Sec. 17-201 shall apply.

(1) Initial Submission of Application

Applications shall be submitted to the Planning Director in the form established by the Planning Director, along with a fee established pursuant to Sec. 17-201(B)(1)c.

(2) Determination of Completeness

In the case of applications reviewed under this section, the completeness determination may consist of the acceptance of a pre-prepared form which has been authorized by the Planning Director and submitted by the applicant, on which all requested information has been provided, and to which all required documentation is appended. However, notwithstanding acceptance of an application, if the Planning Director finds that required information or documentation has not been provided, the application may be determined incomplete and subject to the terms of section 17-201(F)(2).

(3) Review and Action by Planning Director

a. After the application is determined complete, the Planning Director shall review the application in accordance with the procedures of this section and approve, approve with conditions, or disapprove the application pursuant to the criteria set forth in Sec. 17-202 applicable to the type of permit or approval under consideration. Such decision shall be made within the following timeframes after determination that the application is complete, unless in the Planning Director's discretion unusual circumstances or impacts such as the size or complexity of the proposed project or the level of anticipated public interest in the project warrant additional time for review. The Planning Director shall advise the applicant if additional time for review is necessary.

Temporary Use/Special Event Permit	10 working days
Minor Subdivision	5 working days
Home Occupation Permit	5 working days
Fence Permit	5 working days
Sign Permit	5 working days
Administrative Adjustment	20 working days

(4) Approval

If the Planning Director finds that the application complies with the criteria set forth in Sec. 17-202 applicable to the type of permit or approval under consideration, the application shall be approved or approved with conditions.

(5) Failure to Comply

- a. If the Planning Director finds that the application fails to comply with the requirements set forth in Sec. 17-202 applicable to the type of permit or approval under consideration, the applicant shall have an opportunity to submit a revised application. At the applicant's request, the Planning Director shall schedule a meeting with the applicant to discuss the application and his findings.
- b. If a revised application is submitted, it shall be reviewed for completeness, and when complete it shall be reviewed by the Planning Director for compliance with the same criteria applicable to the original application, and within the same timeframe applicable to the original application as set forth in subsection (2) above. If the application is not resubmitted within thirty (30) calendar days from receipt of notification of failure to comply by the applicant, the application shall be considered withdrawn and shall be subject to the provisions of Secs. 17-201(P)(4) and (5).

17-202 SPECIFIC STANDARDS AND OTHER REQUIREMENTS FOR APPLICATIONS FOR DEVELOPMENT APPROVAL

(A) General Overview

Table 17-202(A) summarizes the development review procedures for all the different types of development approvals and permits in this section.

TABLE 17-202(A) DEVELOPMENT PERMIT REVIEW STRUCTURE					
S=Staff Review R=Review and Advise D=Final Decision A=Appeal					
Development Permit	Board of County Commissioners	Planning Commission	Planning Director	Development Review Committee	County Engineer
Amendment to Text of Code	D	R	S		
Amendment to Zone District Map (Rezoning)	D	R	S		
Amendment to Zone District Map to a PD District	D	R	S	R	
Major Conditional Use Permit	D	R	S	R	
Minor Conditional Use Permit	A	D	S	R	
Variance		D	S		
Administrative Adjustment		A	D		
Minor Subdivision		A	D		
Preliminary Subdivision Plat		A	D	R	
Final Subdivision Plat		A	D	R	
Temporary Use Permit			D		
Special Event Permit			D		
Home Occupation Permit			D		
Sign Permit			D		

TABLE 17-202(A) DEVELOPMENT PERMIT REVIEW STRUCTURE					
S=Staff Review R=Review and Advise D=Final Decision A=Appeal					
Development Permit	Board of County Commissioners	Planning Commission	Planning Director	Development Review Committee	County Engineer
Fence Permit			D		
Soil and Sedimentation Control Permit/Grading Permit					D
Change, Continuation, or Enlargement of Nonconformity		D	S		
Interpretations on Zoning		A	D		
Interpretations on Subdivision		A	D		
Appeals from Decisions and Determinations of Planning Director		A			
Appeals from Decisions by the Planning Commission on Appeal	D				
Beneficial Use Determination	D				

(B) Amendments to Text and Zoning District Map

(1) Purpose

The purpose of this section is to provide a means for amending the text of this Code or making an amendment to the Zoning District Map (Rezoning) other than to a Planned Development (PD) classification. Amendments to the Zoning District Map to a PD classification are governed by Sec. 17-202(C).

(2) Authority

The BOCC may adopt an ordinance amending the text of this Code or amending the Zoning District Map (Rezoning) upon compliance with the provisions of this section.

(3) Initiation

a. Amendment to the Text of This Code

An application to amend the text of this Code may be initiated by the BOCC, the Planning Commission, county staff, or an owner of property in the county.

b. Amendment to Zoning District Map

An application to amend the Zoning District Map (Rezoning) may be initiated by the BOCC, the Planning Commission, county staff, or by a person or entity who may submit applications pursuant to Sec. 17-201(A), Authority to File Applications.

c. Minimum Tract Size for Rezoning

Except where otherwise explicitly permitted in this Code, no tract of land shall be considered for rezoning that is less than one acre in size, except where such tract abuts the district to which rezoning is requested, or abuts a non-residential

zoning district. In addition, the tract shall contain the minimum lot size and frontage for the zoning district requested, or propose combination of the parcel with an adjacent tract with such zoning that meets those requirements.

(4) **Procedures**

a. ***Initial Submission of Application, Staff Review, Public Notification, and Scheduling of Public Hearing***

1. *General*

The procedures and requirements for application submission, application contents, application form, the pre-application conference, neighborhood meetings, determination of the application's completeness, staff review and preparation of a Staff Report, scheduling the public hearing(s), and public notification for an application to amend the Text of this Code or the Zoning District Map are established in Secs. 17-201(B) through (I), Common Procedures.

2. *Additional Requirements*

In addition to the general requirements in Sec. 17-202(B)(4)a.1, as part of every application to amend the Zoning District Map a General Development Plan (GDP) delineating the basic form of proposed development on the rezoned parcel and complying with the requirements established by the Planning Director pursuant to Sec. 17-201(B)(1)a shall be submitted.

3. *Waiver*

The Planning Director may waive the requirement that a GDP be submitted when:

- (a) The proposed rezoning is for infill development that is similar to existing surrounding development patterns; and
- (b) The Planning Director finds that there will be no unusual adverse impacts from the proposed rezoning that would not normally be mitigated by the development standards of this Code.

b. ***Review and Recommendation by Planning Commission***

After public notification and the scheduling of a public hearing, the Planning Commission shall conduct a public hearing on the application pursuant to Sec. 17-201(K), Public Hearing Procedures. At the public hearing, the Planning Commission shall consider the application (including the GDP, in the case of rezoning applications), the relevant support materials, the Staff Report, and the public testimony and evidence given at the hearing. Within a reasonable period of time after the close of the public hearing, but no more than two of its regularly scheduled meetings from the date of referral to the Planning Commission, the Planning Commission shall make a report to the BOCC recommending either to approve or disapprove the application based on the standards in Sec. 17-202(B)(5), Standards. If the Planning Commission fails to forward the report within two regularly scheduled meetings from the date of referral, the application is deemed to have been recommended for disapproval. The recommendation shall be forwarded to the BOCC.

c. ***Review and Action by BOCC***

After receipt of the recommendation from the Planning Commission, and after the scheduling of a public hearing (Sec. 17-201(H)) and public notification (Sec. 17-201(I)), the BOCC shall conduct a public hearing on the application pursuant to Sec. 17-201(K), Public Hearing Procedures. At the public hearing, the BOCC shall consider the application, the relevant support materials, the Staff Report, the recommendation of the Planning Commission, and the public testimony and evidence given at the hearing. Within a reasonable period of time after the close of the public hearing, and based on Sec. 17-202(B)(5), Standards, the BOCC shall either adopt an ordinance amending the text of this Code or the Zoning District Map (whichever is appropriate), or disapprove the application.

(5) Standards

a. Text Amendments

The advisability of amending the text of this Code is a matter committed to the legislative discretion of the BOCC. In determining whether to adopt or disapprove the proposed amendment, the BOCC shall consider the following factors:

1. *Implements Comprehensive Plan*
Whether and the extent to which the proposed amendment is in accord with and implements specific policies recommended in the Comprehensive Plan.
2. *Consistent with Code*
Whether the proposed amendment is consistent with the purpose, intent, and provisions of this Code and related county regulations.
3. *Necessary and Desirable*
Whether and the extent to which the proposed amendment is necessary or desirable because of a demonstrated community need, changing social values, new planning concepts, or other social or economic conditions.
4. *Fiscal Impact*
Whether and the extent to which the proposed text amendment would result in beneficial or adverse fiscal impacts on the county.
5. *Effect on Natural Environment*
Whether and the extent to which the proposed amendment would result in significant beneficial or adverse impacts on the natural environment, including but not limited to water, air, noise, scenic resources, storm water management, wildlife habitat, vegetation, wetlands, and the natural functioning of the environment.
6. *Impact on Public Facilities*
Whether and the extent to which the proposed amendment would result in development that is adequately served by public facilities (roads, potable water, wastewater treatment, schools, parks, police, and fire and emergency medical facilities).

b. Amendments to Zoning District Map

The advisability of amending the Zoning District Map (Rezoning) is a matter committed to the legislative discretion of the BOCC. In considering an amendment to the Zoning District Map (Rezoning), the BOCC may adopt a change for only part of the area requested by the applicant. The BOCC may also consider a change to a zoning district of the same type (such as rural, residential, commercial or industrial), but of a lesser intensity. In determining whether to adopt or disapprove the proposed amendment, the BOCC shall consider the following factors:

1. *Compatible with Surrounding Uses*
Whether and the extent to which the proposed amendment will result in allowable uses that are compatible with the existing use or usability of surrounding property and will tend to ensure efficient development within the county.
2. *Consistent with Comprehensive Plan*
Whether and the extent to which the proposed amendment is consistent with the goals and policies of the Comprehensive Plan, including land use patterns, densities, and intensities indicated in the Plan for the area in question.
3. *Orderly Development Patterns*
Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern, including consideration of whether the change would create an isolated district unrelated to the surrounding districts and whether there are changed or unusual conditions that are relevant to the proposed amendment.
4. *Effect on Natural Environment*
Whether and the extent to which the proposed amendment would result in significant adverse impacts on the natural environment, including but not limited to water, air, noise, scenic resources, storm water management, wildlife habitat, vegetation, wetlands, and the natural functioning of the environment.
5. *Impact on Neighborhood*
Whether and the extent to which the proposed amendment would have negative or adverse impacts on surrounding lands and the users of those lands.
6. *Public Facilities*
Whether and the extent to which the proposed amendment would result in development that is adequately served by public facilities, infrastructure, and services, while maintaining adequate levels of service to existing development.
7. *Conditions*
Whether and the extent to which conditions of approval would assure that development addresses the factors for consideration of rezonings in this Sec. 17-201(B).
8. *Other Action to Address Need*

Whether the needs to be served by the proposed rezoning could be addressed by other means, such as a Major or Minor Conditional Use Permit, Variance, or Administrative Adjustment.

(C) Planned Development

(1) General

This section establishes the procedures for review of applications for amendments to the Zoning District Map to a Planned Development (PD) classification.

(2) General Applicability

Before any land may be designated as a PD district on the Zoning District Map, it shall receive approval pursuant to the procedures and standards of this section.

(3) Minimum Land Area

A PD district classification may only be applied to lands that comprise a minimum of ten (10) contiguous acres in area for a Planned Residential Development, and a minimum of five (5) contiguous acres for a Planned Commercial Development. A smaller land area may be approved as a part of an addition to an existing PD district.

(4) Location

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

(5) Unified Ownership or Control

The title to all land that is part of a proposed PD zoning district classification shall be owned or controlled by one person at the time of application and approval. A person shall be considered to control all lands in the proposed PD zoning district either through ownership or by written consent of all owners of said land that they will be subject to the conditions and standards of the adopting ordinance and the Preliminary and Final PD Plans.

(6) PD Zoning District Classification and Preliminary PD Plan

a. Procedure

1. Overview

A PD zoning district classification shall constitute an amendment to the Zoning District Map. It shall be controlled by a Preliminary PD Plan that is approved as part of the PD zoning district classification. The procedure requires approval of a Preliminary PD Plan. A Final PD Plan is also required to be reviewed and approved pursuant to Sec. 17-202(C)(7), Final PD Plan, prior to development.

2. Initial Submission of Application, Staff Review, Public Notification and Scheduling of Public Hearing

(a) General

The procedures and requirements for initiation of an application for PD zoning district classification, application submission, application contents, application form, the pre-application conference, neighborhood meetings, determination of the application's completeness, staff review and preparation of a Staff Report, scheduling the public hearing(s) and public notification are established in Secs. 17-201(B) through (I) Common Procedures.

(b) Additional Requirement

In addition to the general requirements in Section 17-202(C)(6)(a)(2)(a), as part of every application for PD zoning district classification, prior to preparation of a staff report, the Development Review Committee shall meet and review the application, and make recommendations to the Planning Director.

3. *Review and Recommendation by Planning Commission*

After public notification and the scheduling of a public hearing pursuant to the requirements of Sec. 17-201(H), Scheduling Public Hearing, and Sec. 17-201(I), Public Notification, the Planning Commission shall conduct a public hearing on the application pursuant to Sec. 17-201(K), Public Hearing Procedures. At the public hearing, the Planning Commission shall consider the application, the relevant support materials, the Staff Report, and the public testimony and evidence given at the hearing. Within a reasonable period of time after the close of the public hearing, but no more than two of its regularly scheduled meetings from the date of referral to the Planning Commission, the Planning Commission shall make a report to the BOCC recommending either to approve, approve with conditions or disapprove the application based on the standards in Sec. 17-202(C)(6)b, Standards. If the Planning Commission fails to forward the report within two regularly scheduled meetings from the date of referral, the application is deemed to have been recommended for disapproval. The recommendation shall be forwarded to the BOCC.

4. *Review and Action by BOCC*

After receipt of the recommendation from the Planning Commission, and after the scheduling of a public hearing (Sec. 17-201(H)) and public notification (Sec. 17-201(I)), the BOCC shall conduct a public hearing on the application pursuant to Sec. 17-201(K), Public Hearing Procedures. At the public hearing, the BOCC shall consider the application, the relevant support materials, the Staff Report, the recommendation of the Planning Commission, and the public testimony and evidence given at the hearing. Within a reasonable period of time after the close of the public hearing, and based on the standards in Sec. 17-202(C)(6)b, Standards, the BOCC shall either approve, approve with conditions or disapprove the application.

b. **Standards**

A PD zoning district classification and Preliminary PD Plan shall comply with the standards in Sec. 17-305(B), General Standards for PD Districts, with the standards governing the specific PD zoning district classification that is being requested (Sec. 17-305(C)(1) (PRD District), or Sec. 17-305(C)(2) (PCD District) whichever is applicable), and any relevant generally applicable development standards set forth in this Code.

c. **Conditions of Approval**

In approving a Preliminary PD Plan and PD zoning district classification, the BOCC may impose appropriate conditions on the approval pursuant Sec. 17-201(L), Conditions of Approval, to ensure the standards of this section and the

other requirements of this Code are met. The conditions shall be included as part of the approval.

d. *Planned Development (PD) Plan*

Concurrent with the approval of the adopting ordinance for the PD zoning district classification and the Preliminary PD Plan, a PD Plan shall be established binding the Planned Development to any conditions placed in the adopting ordinance and Preliminary PD Plan. To the degree necessary and appropriate, the PD Plan shall include, but is not limited to conditions related to: design requirements; a phasing plan; open space; landscaping; parking; and public facility improvements and phasing.

e. *Placement of PD Designation on Official Zoning District Map*

After final approval of the adopting ordinance for the PD zoning district classification, Preliminary PD Plan, and PD Plan, the Planning Director shall amend the Zoning District Map to show the appropriate Planned Development zoning district classification (PRD or PCD).

f. *Recordation*

The applicant shall record the adopting ordinance for the PD zoning district classification, the Preliminary PD Plan and the PD Plan with the Clerk of Superior Court of the County. 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 Preliminary PD Plan and PD Plan. The applicant shall submit proof that the adopting ordinance, Preliminary PD Plan, and PD Plan have been recorded with the Clerk of Superior Court of the County within one hundred eighty (180) calendar days of its approval, or the County will initiate a rezoning to the prior zoning district classification in accordance with the procedures of this Code and record the fact of the rezoning of the property to the prior zoning district.

g. *Effect*

Approval of an adopting ordinance for a PD zoning district classification, Preliminary PD Plan, and PD Plan shall constitute a Zoning District Map classification and a recognition by the county that the landowner may proceed, consistent with the Preliminary PD Plan and PD Plan to develop the land after approval of a Final PD Plan (Sec. 17-202(C)(7)) and all other relevant and appropriate permit approvals under this code and other county regulations.

h. *Rezoning to Prior District Unless Timely Action Taken*

1. *General*

Unless a Final PD Plan is submitted for at least the initial phase of the Preliminary PD Plan within one (1) year after the date of approval of the PD zoning district classification and Preliminary PD Plan, the County may initiate a rezoning to the prior zoning district classification in accordance with the procedures of this Code and record the fact of the rezoning of the property to the prior zoning district. The one-year time period will not be extended with transfer of ownership.

2. *One extension*

Upon written request, one extension of time may be granted by the BOCC for a period not to exceed one year for good cause shown.

i. Minor Deviations

A minor deviation to a Preliminary PD Plan and/or a PD Plan may be approved by the Planning Director. In making a decision on a minor deviation the Planning Director shall identify the facts and standards of this section that permit the approval or disapproval of the minor deviation. A minor deviation shall be limited to technical or engineering considerations first discovered during actual development 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, as long as it complies with the standards of this Code. Minor deviations shall be limited to the following:

1. Height

An increase of building height by not more than ten (10) percent, as long as the height increase is consistent with the contextual height of the surrounding buildings and structures, and the Preliminary PD Plan.

2. Alteration of the Building Envelope

Alteration of the building envelope of up to ten (10) percent, provided such alteration does not materially change the design of the development approved in the Preliminary PD Plan, and does not change the number of stories, density or intensity.

3. Reduction of Open Space or Setbacks

Reduction of the total amount of open space by not more than one percent, or reduction of setbacks of not more than five percent.

4. Minor Re-Orientation of Buildings

Minor re-orientation of buildings and structures.

j. Amendments

Except for minor deviations, a Preliminary PD Plan and/or PD Plan may be amended, extended, or modified only in accordance with procedures and standards for its original approval.

(7) Final PD Plan

a. Procedure

1. Overview

A Preliminary PD Plan and amendment to the Zoning District Map for a PD zoning district classification shall be approved by the BOCC prior to submission and review of a Final PD Plan. The Final PD Plan shall be reviewed and approved, approved with conditions or disapproved by the Planning Director.

2. Initial Submission of Application, Staff Review, Public Notification and Scheduling of Public Hearing

The procedures and requirements for initiation of an application for Final PD Plan, application submission, application contents, application form, the pre-application conference, determination of the application's

completeness, staff review and preparation of a Staff Report is established in Secs. 17-201 (B) through (I), Common Procedures.

3. Action by Planning Director

Within twenty (20) working days after the application is determined to be complete, the Planning Director shall review the application and prepare a written Staff Report on whether the application complies with the standards in Sec. 17-202(C)(7)b, Standards. A copy of the Staff Report shall be provided to the applicant.

(a) Approval

If the Planning Director finds that the application complies with the standards in Sec. 17-202(C)(7)b, Standards, the Planning Director shall approve or approve with conditions the Final PD Plan.

(b) Fails to Comply

(i) If the Staff Report reflects the application fails to comply with the standards of Sec. 17-202(C)(7)b, Standards, the applicant shall have an opportunity to submit a revised application. At the applicant's request, the Planning Director shall schedule a meeting with the applicant to discuss the application and Staff Report.

(ii) A revised application shall be reviewed by the Planning Director within ten (10) working days after its resubmittal and shall be approved, approved with conditions or disapproved based on the standards in Sec. 17-202(C)(7)b, Standards. If the revised application is not re-submitted within thirty (30) calendar days from the date the Staff Report was forwarded to the applicant, the application shall be considered withdrawn and shall be subject to the provisions of Secs. 17-201(P)(4) and (5).

b. Standards

The Final PD Plan shall be approved if it is in substantial conformance with the Preliminary PD Plan and in conformance with all relevant standards of this Code not specifically modified or superseded by the Preliminary PD Plan, including Chapter 6: *Development Standards* and Chapter 7: *Subdivision Standards*.

c. Conditions of Approval

In approving a Final PD Plan, the Planning Director may impose appropriate conditions on the approval pursuant to Sec. 17-201(L), Conditions of Approval, to ensure the standards of this section and the other requirements of this Code are met. The conditions shall be included as part of the approval.

d. Effect

Approval of a Final PD Plan shall constitute recognition by the county that the landowner may proceed and develop the land subject to the Final PD Plan, consistent with the Final PD Plan, when all other relevant and appropriate permit approvals under this Code and other county regulations are granted.

e. Expiration

1. General

Unless at least one Building or Development Permit is approved for the development approved in the Final PD Plan within twelve (12) months after the date of approval of the Final PD Plan, the County will initiate a rezoning to the prior zoning district classification in accordance with the procedures of this Code and record the fact of the rezoning of the property to the prior zoning district. The one-year time period will not be extended with transfer of ownership.

2. One Extension

One extension of time may be granted pursuant to the procedures and standards of Sec. 17-201(S), Lapse of Approval.

f. Amendments

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

(D) Conditional Use Permits

(1) Purpose

Conditional uses are uses that are generally compatible with the other uses permitted in a zoning 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. Conditional uses are divided by this Code into two types, major and minor conditional uses. Major conditional uses are those uses requiring review and decision by the BOCC, while minor conditional uses are those uses that require review and decision by the Planning Commission.

(2) Major Conditional Use Permit

a. Authority

1. General

The BOCC is authorized to review and approve, approve with conditions, or disapprove an application for a Major Conditional Use Permit pursuant to the procedures and standards of this section.

2. Uses Authorized

Only those uses identified as major conditional uses in Sec. 17-400, Table of Permitted Uses, are authorized to be considered for Major Conditional Use Permits under this section. The designation of a use as a major conditional use in Sec. 17-400, Table of Permitted Uses, does not constitute authorization that such use shall be approved as a Major Conditional Use Permit pursuant to this section. Rather, each proposed major conditional use shall be evaluated by the Development Review Committee, Planning Commission, and BOCC for compliance with the standards set forth in this section, and the standards for the use in Sec. 17-401, Use-Specific Regulations.

b. Procedure

1. Initial Submission of Application, Staff Review, Public Notification and Scheduling of Public Hearing

(a) General

The procedures and requirements for initiation of an application for a Major Conditional Use Permit, application submission, application contents, application form, the pre-application conference, determination of the application's completeness for an application, and preparation of a Staff Report, neighborhood meetings, scheduling the public hearing, and public notification are established in Secs. 17-201(B) through (I), Common Procedures.

(b) Additional Requirement

(c) In addition to the general requirements in Sec. 17-202(D)(2)b.1, as part of every application to amend the Zoning District Map a General Development Plan (GDP) delineating the basic form of proposed development of the Conditional Use and complying with the requirements established by the Planning Director pursuant to Sec. 17-201(B)(1)a shall be submitted. Prior to the preparation of the Staff Report, the Development Review Committee shall meet and review the application and make recommendations to the Planning Director. Waiver
The Planning Director may waive the requirement that a GDP be submitted when:

- i. The proposed use is for infill development that is similar to existing surrounding development patterns; and
- ii. The Planning Director finds that there will be no unusual adverse impacts from the proposed conditional use that would not normally be mitigated by the development standards of this Code.

2. *Review and Recommendation by Planning Commission*

After public notification and the scheduling of a public hearing on an application for a Major Conditional Use Permit, the Planning Commission shall conduct a public hearing on the application pursuant to Sec. 17-201(K), Public Hearing Procedures. At the public hearing, the Planning Commission shall consider the application, the relevant support materials, the Staff Report, and the public testimony and evidence given at the hearing. Within a reasonable period of time after the close of the public hearing, but no more than two of its regularly scheduled meetings from the date of referral to the Planning Commission, the Planning Commission shall make a report to the BOCC recommending to approve, approve with conditions, or disapprove the application based on the criteria in Sec. 17-202(D)(2)c, Criteria. If the Planning Commission fails to forward the report within two regularly scheduled meetings from the date of referral, the application is deemed to have been recommended for disapproval. The recommendation shall be forwarded to the BOCC.

c. *Criteria*

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

1. *Implements the Comprehensive Plan*
The proposed use is consistent with the goals and policies of the Comprehensive Plan and implements the specific policies recommended in the Comprehensive Plan for the area in question, particularly the recommended land use patterns, densities, and intensities.
2. *Complies With Use-Specific Regulations*
The proposed use complies with all standards in Sec. 17-401, Use-Specific Regulations.
3. *Compatibility*
The proposed use is appropriate for its proposed location and compatible with the character of surrounding neighborhoods, lands, and uses, including but not limited to height, bulk, and location of structures; density and intensity; and the uses permitted in surrounding zoning district(s).
4. *Design Minimizes Adverse Impacts*
The design of the proposed use minimizes adverse effects, including visual impacts of the proposed use on adjacent lands and neighborhoods; furthermore, the proposed conditional use avoids significant adverse impact on surrounding lands regarding service, delivery and disposal areas, parking and loading, odors, noise, glare, and vibration, and does not create a nuisance.
5. *Environmental Impact*
The proposed use meets or exceeds all environmental protection standards of Sec. 17-614, is designed to minimize negative impacts, and does not cause significant adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, scenic resources, wildlife habitat, vegetation, wetlands, and the natural functioning of the environment.
6. *Fiscal Impact*
The proposed use will not result in significant adverse fiscal impacts on the county.
7. *Roads*
There is adequate road capacity available to serve the proposed use, and the proposed use is designed to ensure safe ingress and egress onto the site and safe road conditions around the site, including adequate access onto the site for fire, police, and EMS services.
8. *Public Facilities*
The proposed use would result in development that is adequately served by public facilities, infrastructure, and services, while maintaining adequate levels of service to existing development as determined by the county.

d. Conditions of Approval

In approving a Major Conditional Use Permit, the BOCC may impose appropriate conditions on the permit approval pursuant to Sec. 17-201(L), Conditions of Approval, to ensure the standards of this section and the other requirements of this Code are met. The conditions shall be included as part of the permit approval.

e. Effect

Issuance of a Major Conditional Use Permit shall authorize only the particular major conditional use that is approved in the permit. A Major Conditional Use Permit, including any conditions, shall run with the land for any time period specified in the approval and not be affected by a change in ownership, except in the case of certain Major Conditional Uses (as indicated in Sec. 17-402) for which approvals do not run with the land.

f. Expiration**1. General**

The BOCC may prescribe a time limit within which development activity shall begin or be completed, or both, on the Major Conditional Use Permit. Failure to begin and/or complete such development activity within the time limit specified shall void the Major Conditional Use Permit. Unless specified otherwise by the BOCC, a Building Permit shall be issued 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 county's building regulations, or the Major Conditional Use Permit shall expire and be void.

2. Time Period

The BOCC may establish a time period for the validity of the Major Conditional Use Permit after which the use shall not be continued without obtaining a renewal of the development approval. An application for renewal shall be submitted and reviewed in accordance with the standards and procedures for an original Major Conditional Use Permit.

3. Extension

An extension of time may be granted pursuant to the procedures and standards of Sec. 17-202(S), Lapse of Approval.

g. Amendments

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

(3) Minor Conditional Use Permit**a. Authority****1. General**

The Planning Commission is authorized to review and approve, approve with conditions, or disapprove an application for a Minor Conditional Use Permit pursuant to the procedures and standards of this section.

2. Uses Authorized

Only those uses identified as minor conditional uses in Sec. 17-400, Table of Permitted Uses, are authorized to be considered for Minor Conditional Use Permits under this section. The designation of a use as a minor conditional use in Sec. 17-400, Table of Permitted Uses, does not constitute authorization that such use shall be approved as a Minor Conditional Use Permit pursuant to this section. Rather, each proposed minor conditional use shall be evaluated by the DRC and Planning Commission for compliance with the standards set forth in this section, and the standards for the use in Sec. 17-401, Use-Specific Regulations.

b. Procedure

1. Initial Submission of Application, Staff Review, Public Notification and Scheduling of Public Hearing

(a) General

The procedures and requirements for initiation of an application for a Minor Conditional Use Permit, application submission, application contents, application form, the pre-application conference, determination of the application's completeness for an application, and preparation of a Staff Report, neighborhood meetings, scheduling the public hearing, and public notification are established in Secs. 17-201(B) through (I), Common Procedures.

(b) Additional Requirements

In addition to the general requirements in Sec. 17-202(D)(3)b.1, as part of every application to amend the Zoning District Map a General Development Plan (GDP) delineating the basic form of proposed development of the Conditional Use and complying with the requirements established by the Planning Director pursuant to Sec. 17-201(B)(1)a shall be submitted. Prior to the preparation of the Staff Report, the Development Review Committee shall meet and review the application and make recommendations to the Planning Director.

(c) Waiver

The Planning Director may waive the requirement that a GDP be submitted when:

iii. The proposed use is for infill development that is similar to existing surrounding development patterns; and

iv. The Planning Director finds that there will be no unusual adverse impacts from the proposed conditional use that would not normally be mitigated by the development standards of this Code.

2. Review and Action by Planning Commission

After public notification and the scheduling of a public hearing on an application for a Minor Conditional Use Permit, the Planning Commission shall conduct a public hearing on the application pursuant to Sec. 17-201(K), Public Hearing Procedures. At the public hearing, the Planning

Commission shall consider the application, the relevant support materials, the Staff Report, and the public testimony and evidence given at the hearing. Within a reasonable period of time after the close of the public hearing, the Planning Commission shall either approve, approve with conditions or disapprove the application based on the standards in Sec. 17-202(D)(3)c, Criteria.

c. Criteria

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

1. *Implements the Comprehensive Plan*
The proposed use is consistent with the goals and policies of the Comprehensive Plan and implements the specific policies recommended in the Comprehensive Plan for the area in question, particularly the recommended land use patterns, densities, and intensities.
2. *Complies With Use-Specific Regulations*
The proposed use complies with all standards in Sec. 17-401, Use-Specific Regulations.
3. *Compatibility*
The proposed use is appropriate for its proposed location and compatible with the character of surrounding neighborhoods, lands, and uses, including but not limited to height, bulk, and location of structures; density and intensity; and the uses permitted in surrounding zoning district(s).
4. *Design Minimizes Adverse Impacts*
The design of the proposed use minimizes adverse effects, including visual impacts of the proposed use on adjacent lands and neighborhoods; furthermore, the proposed conditional use avoids significant adverse impact on surrounding lands regarding service, delivery and disposal areas, parking and loading, odors, noise, glare, and vibration, and does not create a nuisance.
5. *Environmental Impact*
The proposed use meets or exceeds all environmental protection standards of Sec. 17-614, is designed to minimize negative impacts, and does not cause significant adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, scenic resources, wildlife habitat, vegetation, wetlands, and the natural functioning of the environment.
6. *Fiscal Impact*
The proposed use will not result in significant adverse fiscal impacts on the county.
7. *Roads*
There is adequate road capacity available to serve the proposed use, and the proposed use is designed to ensure safe ingress and egress

onto the site and safe road conditions around the site, including adequate access onto the site for fire, police, and EMS services.

8. Public Facilities

The proposed use would result in development that is adequately served by public facilities, infrastructure, and services, while maintaining adequate levels of service to existing development as determined by the county.

d. Conditions of Approval

In approving a Minor Conditional Use Permit, the Planning Commission may impose appropriate conditions on the permit approval pursuant to Sec. 17-201(L), Conditions of Approval, to ensure the standards of this section and the other requirements of this Code are met. The conditions shall be included as part of the permit approval.

e. Effect

Issuance of a Minor Conditional Use Permit shall authorize only the particular minor conditional use that is approved in the permit. A Minor Conditional Use Permit, including any conditions, shall run with the land for any time period specified in the approval and not be affected by a change in ownership, except in the case of certain Minor Conditional Uses (as indicated in 17-402) for which approvals do not run with the land.

f. Expiration

1. General

The Planning Commission may prescribe a time limit within which development activity shall begin or be completed, or both, on the Minor Conditional Use Permit. Failure to begin and/or complete such development activity within the time limit specified shall void the Minor Conditional Use Permit. Unless specified otherwise by the Planning Commission, a Building Permit shall be issued 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 county's building regulations, or the Minor Conditional Use Permit shall expire and be void.

2. Time Period

The Planning Commission may establish a time period for the validity of the Minor Conditional Use Permit after which the use shall not be continued without obtaining a renewal of the development approval. An application for renewal shall be submitted and reviewed in accordance with the standards and procedures for an original Minor Conditional Use Permit.

3. Extension

One extension of time may be granted pursuant to the procedures and standards of Sec. 17-201(S), Lapse of Approval.

g. Amendments

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

h. Appeal

Any person aggrieved by the decision of the Planning Commission regarding a Minor Conditional Use Permit may appeal the decision to the BOCC pursuant to Sec. 17-202(O), Appeals, by filing a written appeal of the decision with the Planning Director.

(E) Site Plan Approval

(1) Purpose

The purpose of site plan approval is to ensure that all non-residential and multi-family development complies with the requirements of this UDC, and with all other adopted ordinances and policies of Hall County, prior to the issuance of a building permit. In general, the Site Plan requirements apply when development is proposed on a lot that has been previously subdivided, or on a lot that is not required to be subdivided, in order to ensure that the site accommodates the proposed development while ensuring adequate parking circulation and access, minimizing adverse impacts on neighboring properties, and complying with all relevant regulations.

(2) Applicability

The provisions of this section shall apply to every proposed development involving any non-residential land use or any multi-family land use. In the case of a development that also includes single-family residential land uses on individually platted lots, the single-family residential component shall be required to comply with the requirements for Subdivisions of land, and shall not be required to comply with the Site Plan process.

(3) Authority

The Planning Director is authorized to review and approve, approve with conditions, or disapprove a proposed Site Plan pursuant to the procedures and standards of this section.

(4) Procedure

a. Initial Submission of Application

The procedures for initiation of an application for approval of a Site Plan, application submission, contents, and form, determination of the application's completeness, and preparation of a Staff Report are established in Secs.17-201(B) through (G), Common Procedures.

b. Development Review Committee

In addition, after the application has been determined to be complete, it shall be referred to the Development Review Committee, which shall review the application, determine its compliance with the requirements of this Code or other applicable county regulations and standards, and make recommendations on its approval or disapproval based on the standards of Sec. 17-202(E)(5). Within ten (10) working days, each DRC member shall notify the Planning Director in writing whether the development meets or fails to meet the requirements of this Code and of that department. The department shall specifically note the manner in which the plat fails to meet these requirements.

c. Review and Action by Planning Director

Within fifteen (15) working days after the application is determined to be sufficient, the Planning Director shall review the application in accordance with the procedures of Sec. 17-201(J).

d. Approval

If the Planning Director finds that the application complies with the standards in Sec. 17-202(E)(5), the Site Plan shall be approved or approved with conditions.

e. Fails to Comply

1. If the Planning Director finds that the application fails to comply with the standards in Sec. 17-202(E)(5), Criteria, the applicant shall have an opportunity to submit a revised application. At the applicant's request, the Planning Director shall schedule a meeting between the applicant and relevant members of the DRC to discuss the application and the Staff Report.

2. A revised application shall be reviewed by the DRC and Planning Director within ten (10) working days after its submittal and approved, approved with conditions, or disapproved, based on the standards in Sec. 17-202(E)(5). If the application is not resubmitted within sixty (60) calendar days from receipt of notification by the applicant, the application shall be considered withdrawn and shall be subject to the provisions of Secs. 17-201(P)(4) and (5).

(5) Criteria

A Site Plan shall be approved upon a finding that the application complies with all applicable standards in this Code, and particularly with all requirements of Chapter 3: Zone Districts; Chapter 4: Use Regulations; Chapter 5, Dimensional Standards; and Chapter 6: Development Standards.

(6) Conditions of Approval

In approving a Site Plan, the Planning Director may impose appropriate conditions on the approval pursuant to Sec. 17-201(L): Conditions of Approval, to ensure the standards of this section and the other requirements of this Code are met. The conditions shall be included as part of the approval.

(7) Effect

After the approval of a Site Plan, a Soil Erosion and Sedimentation Control Permit may be issued by the County Engineer pursuant to the procedures and requirements of Sec. 17-202(L). A Site Plan shall not be recorded with the Clerk of Superior Court of the County. An approved Site Plan, including any conditions, shall run with the land and not be affected by a change in ownership.

(8) Expiration

a. General

Significant construction activities consistent with the approved Site Plan shall be completed within twenty-four (24) months from the date of approval of the Site Plan, or the Site Plan shall expire and be void.

b. Extension

An extension of time may be granted pursuant to the procedures and standards of Sec. 17-202(S), Lapse of Approval.

(9) Amendment

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

(10) Appeal

Any person aggrieved or affected or any officer, department, board or bureau of the county affected by the determination of the Planning Director on an application for a Site Plan may appeal the determination to the Planning Commission in accordance with the procedures of Sec. 17-202(O).

(F) Variances and Administrative Adjustments

(1) Purpose

The purposes of Variances and Administrative Adjustments are to allow certain deviations from the standards of this Code. The purpose of a Variance is to allow significant deviations after public review. The purpose of an Administrative Adjustment is to allow minor deviations after administrative review.

(2) Limitations

- a. Variances may be granted from the dimensional and development standards of this Code, and other requirements as specifically authorized, however, no variance may be granted to the minimum lot size or minimum lot dimensions in order to create a new lot that does not meet the minimum lot size or dimension requirements applicable in the zone district where the property is located.
- b. No Variance shall be granted to allow a use in a zoning district where it would otherwise be prohibited or would be allowed only upon approval of a Major or Minor Conditional Use Permit or other development approval under this Code.
- c. Administrative Adjustments may only be used to modify by ten (10) percent or less any dimensional standard or development standard eligible for a variance, or modifications to the requirements of Sec. 17-402(B)(1)a.
- d. No Administrative Adjustment may be granted that would have the effect of reducing the total amount of open space required to be set aside or increasing the net residential density or net nonresidential intensity allowed on a tract of land.

(3) Variances

a. Authority

The Planning Commission is authorized to review and approve, approve with conditions, or disapprove an application for a Variance pursuant to the procedures and standards of this section.

b. Procedures

1. Initial Submission of Application, Staff Review, Public Notification and Scheduling of Public Hearing

The procedures and requirements for initiation of an application for a Variance, application submission, application contents, application form,

the optional pre-application conference, determination of the application's completeness, staff review and preparation of a Staff Report, scheduling the public hearing and public notification are established in Secs. 17-201(B) through (I), Common Procedures.

2. Review and Action by Planning Commission

After public notification and the scheduling of a public hearing, the Planning Commission shall conduct a public hearing on the application pursuant to Sec. 17-201(K), Public Hearing Procedures. At the public hearing, the Planning Commission shall consider the application, the relevant support materials, the Staff Report, and the public testimony and evidence given at the hearing. Within a reasonable period of time after the close of the public hearing, the Planning Commission shall either approve, approve with conditions, or disapprove the application based on the standards in Sec. 17-202(E)(5), Criteria.

c. Criteria

A Variance shall be approved only upon a finding that the applicant has demonstrated all of the following criteria are met:

1. *There are extraordinary and exceptional physical conditions pertaining to the particular lot in question because of its size, shape, or topography;*
2. *The extraordinary and exceptional physical conditions are peculiar to the particular lot in question and are not common to other properties in the neighborhood;*
3. *The extraordinary and exception physical conditions are not the result of any actions of the property owner;*
4. *Because of the extraordinary and exceptional physical conditions, the application of the requirements of this Code to the particular lot would create an unusual and unnecessary hardship;*
5. *Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this Code; and*
6. *Any adverse impacts resulting from the variance are minimized and mitigated by the application of conditions imposed on the Variance.*

d. Conditions of Approval

In approving a Variance, the Planning Commission may impose appropriate conditions on the permit approval pursuant to Sec. 17-201(L), Conditions of Approval, to ensure the standards of this section and the other requirements of this Code are met. The conditions shall be included as part of the permit approval.

e. Subsequent Development

Development authorized by the Variance shall not be carried out until the applicant has secured all other permits required by this Code or any other applicable provisions of the county. A Variance shall not ensure that the development approved as a variance shall receive subsequent approval for other applications for development approval.

f. Effect

Issuance of a Variance shall authorize only the particular deviation that is approved in the permit. A Variance, including any conditions, shall run with the

land and not be affected by a change in ownership. Failure to abide by any conditions imposed on the grant of the Variance shall void the Variance.

g. Amendment

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

(4) Administrative Adjustments

a. Authority

The Planning Director is authorized to review and approve, approve with conditions, or disapprove an application for an Administrative Adjustment pursuant to the procedures and standards of this section.

b. Procedure

1. *Application and review procedures shall be as set forth in Sec. 17-201(T).*
2. *In addition, as part of every application for an Administrative Adjustment:*
 - (a) Written notice shall be provided to all owners of property adjacent to the property that is the subject of the application.
 - (b) Posted notice shall be posted on the subject property.
3. *The written and posted notice shall meet the content requirements of Sec. 17-201(I)(1) and shall be provided at least seven (7) days prior to the action of the Planning Director on the application.*
4. *In addition, the Planning Director shall provide a summary report of the decision to the Planning Commission at its next regular meeting.*

c. Criteria

An Administrative Adjustment shall be approved upon a finding that the applicant has demonstrated all of the criteria in subsection a. below are met and at least one of the criteria in subsection (b) below are met. In addition, an Administrative Adjustment from any of the standards of Sec. 17-402(B)(1)a. shall meet the requirements of subsection (c) below.

1. General Criteria

- (a) The Administrative Adjustment eliminates an unnecessary inconvenience to the applicant;
- (b) The Administrative Adjustment is not inconsistent with the character (including architectural style, materials, or dimensions) of development in the surrounding area and will not result in incompatible land uses;
- (c) The Administrative Adjustment is equally effective in achieving the purposes of the relevant standards from which the modification is granted;
- (d) Any adverse impacts resulting from the Administrative Adjustment will be mitigated to the maximum extent feasible; and
- (e) The Administrative Adjustment will not substantially interfere with the convenient and enjoyable use of adjacent properties, and will not pose a danger to the public health or safety.

2. Additional Criteria

- (a) The Administrative Adjustment is of a technical nature and is required to compensate for some unusual aspect of the site or

(G) Subdivision Permits and Procedures**(1) General Overview and Applicability**

Every subdivision of land in the county is classified as either (1) a Minor Subdivision or (2) a subdivision requiring approval of a Preliminary Plat and of a Final Plat. Before sale or other transfer, every subdivision of land shall be reviewed and approved pursuant to the procedures of this section and recorded in the office of the Clerk of Superior Court of the County.

a. Minor Subdivision

A Minor Subdivision shall be recorded in the office of the Clerk of Superior Court of the County only after approval pursuant to Sec. 17-202(G)(2).

b. All Other Subdivisions

Every subdivision not meeting the definition of Minor Subdivision shall be recorded in the office of the Clerk of Superior Court of the County only after approval of both a Preliminary Plat and a Final Plat pursuant to Secs. 17-202(G)(3) and 17-202(G)(4). A Preliminary Plat shall have been submitted and approved prior to the submittal of an application for approval of a Final Plat .

(2) Minor Subdivision**a. Applicability**

The provisions of this section shall apply to every proposed subdivision of land meeting the definition of a Minor Subdivision as defined in Sec. 17-1001, Definitions.

b. Authority

The Planning Director is authorized to review and approve, approve with conditions, or disapprove a proposed Minor Subdivision pursuant to the procedures and standards of this section.

c. Procedure

Application and review procedures shall be as set forth in Sec. 17-201(T).

d. Criteria

A Minor Subdivision shall be approved upon a finding that the applicant has demonstrated that:

1. All of the standards in Chapter 7 related to minor subdivisions are met; and
2. No other lot (that is not part of an approved subdivision consisting of two or more lots) or Minor Subdivision has been created or subdivided from the common parent tract within the preceding twelve (12) months. All lots that have been created as part of a previous minor subdivision(s) from the same parent tract are subject to the limit of one new lot created for each 12 month period. The geometric approval of multiple lots (2 lots divided in to 4 lots, then into 8 lots, etc.) as part of subsequent minor subdivisions is prohibited.
3. A minor subdivision plat shall reflect the boundaries of both the parent tract and the new lot being created. Subsequent minor subdivisions

created from the same parent tract should be documented using the previous recorded minor subdivision plat, thereby creating a historical record of minor subdivisions from the same plat. In cases where the parent tract is extremely large in relationship to the lot created, the plat drawing may reflect the size, legal description and road frontage of the parent tract in relationship to the new lot using abbreviated graphics or notes in lieu of a completely rendered boundary.

e. *Conditions of Approval*

In approving a Minor Subdivision, the Planning Director may impose appropriate conditions on the approval pursuant to Sec. 17-201(L), Conditions of Approval, to ensure the standards of this section and the other requirements of this Code are met. The conditions shall be included as part of the permit approval.

f. *Subsequent Development*

Development authorized by the Minor Subdivision shall not be carried out until the applicant has secured all other permits required by this Code or any other applicable provisions of the county. A Minor Subdivision shall not ensure that the development approved as a Minor Subdivision shall receive subsequent approval for other applications for development approval.

g. *Effect*

Approval of a Minor Subdivision shall authorize only the particular Minor Subdivision that is approved. Upon approval, a Minor Subdivision plat shall be recorded in the office of the Clerk of Superior Court of the County. An approved Minor Subdivision plat, including any conditions, shall run with the land and not be affected by a change in ownership.

h. *Expiration*

The Minor Subdivision plat shall be recorded in the office of the Clerk of Superior Court of the County within ninety (90) days of its approval, or the Minor Subdivision shall expire and be void.

i. *Amendment*

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

j. *Appeal*

Any person aggrieved or affected or any officer, department, board or bureau of the county affected by the determination of the Planning Director on an application for Minor Subdivision may appeal the determination to the Planning Commission in accordance with the procedures of Sec. 17-202(O).

(3) *Preliminary Plat*

a. *Applicability*

The provisions of this section shall apply to every proposed subdivision of land that does not meet the definition of Minor Subdivision, other than those activities exempted below.

b. *Exemptions from Preliminary Plat Approval*

The following subdivisions shall be exempt from securing Preliminary Plat approval, and may proceed to secure Final Plat approval.

1. A subdivision that has all lots fronting on an existing road or street that is shown on the official road map of the county, and that requires no construction of new streets, water or sewer systems or Stormwater management facilities.

c. Authority

The Planning Director is authorized to review and approve, approve with conditions, or disapprove a proposed Preliminary Plat for Subdivision pursuant to the procedures and standards of this section.

d. Procedure

1. Initial Submission of Application

The procedures for initiation of an application for approval of a Preliminary Plat for Subdivision, application submission, contents, and form, the pre-application conference, neighborhood meeting, determination of the application's completeness, and preparation of a Staff Report are established in Secs.17-201(B) through (G), Common Procedures.

2. Development Review Committee

In addition, after the application has been determined to be complete, it shall be referred to the Development Review Committee, which shall review the application, determine its compliance with the requirements of this Code or other applicable county regulations and standards, and make recommendations on its approval or disapproval based on the standards of Sec. 17-202(G)(3)d. Within ten (10) working days, each DRC member shall notify the Planning Director in writing whether the development meets or fails to meet the requirements of this Code and of that department. The department shall specifically note the manner in which the plat fails to meet these requirements.

3. Review and Action by Planning Director

Within fifteen (15) working days after the application is determined to be sufficient, the Planning Director shall review the application in accordance with the procedures of Sec. 17-201(J).

4. Approval

If the Planning Director finds that the application complies with the standards in Sec. 17-202(G)(3)d, the Preliminary Plat for Subdivision shall be approved or approved with conditions.

5. Fails to Comply

- (a) If the Planning Director finds that the application fails to comply with the standards in Sec. 17-202(G)(3)d, Criteria, the applicant shall have an opportunity to submit a revised application. At the applicant's request, the Planning Director shall schedule a meeting between the applicant and relevant members of the DRC to discuss the application and the Staff Report.

(b) A revised application shall be reviewed by the DRC and Planning Director within ten (10) working days after its submittal and approved, approved with conditions, or disapproved, based on the standards in Sec. 17-202(G)(3)d. If the application is not resubmitted within sixty (60) calendar days from receipt of notification by the applicant, the application shall be considered withdrawn and shall be subject to the provisions of Secs. 17-201(P)(4) and (5).

e. Criteria

A Preliminary Plat for Subdivision shall be approved upon a finding that the applicant has demonstrated all of the standards in Chapter 7 of this Code applicable to preliminary plats.

f. Conditions of Approval

In approving a Preliminary Plat for Subdivision, the Planning Director may impose appropriate conditions on the approval pursuant to Sec. 17-201(L), Conditions of Approval, to ensure the standards of this section and the other requirements of this Code are met. The conditions shall be included as part of the approval.

g. Effect

After the approval of a preliminary plat, a Soil Erosion and Sedimentation Control Permit may be issued by the County Engineer pursuant to the procedures and requirements of Sec. 17-202(L). A Preliminary Plat for Subdivision shall not ensure that a subsequent application for approval of a Final Plat shall be approved. A Preliminary Plat for Subdivision shall not be recorded with the Clerk of Superior Court of the County. An approved Preliminary Plat for Subdivision, including any conditions, shall run with the land and not be affected by a change in ownership.

h. Pre-Construction Meeting

A pre-construction meeting is required between the developer and the county prior to commencement of any grading, installation of subdivision improvements, or other building or construction activity on the site. The pre-construction meeting request shall be made to the County Engineer, and conducted in a similar manner to a Pre-Application Conference (Sec. 17-201(C)).

i. Expiration

1. General

A complete Final Plat application shall be submitted for the subdivision or a phase of the subdivision within twelve (12) months from the date of approval of the Preliminary Plat, or the Preliminary Plat shall expire and be void. Failure to submit a complete Final Plat application within the time limit specified shall void the Preliminary Plat for Subdivision.

2. Phasing

If the subdivision is to be developed in phases, a phasing plan shall be approved as part of the Preliminary Plat approval.

3. Extension

An extension of time may be granted pursuant to the procedures and standards of Sec. 17-202(S), Lapse of Approval.

j. 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.

k. Appeal

Any person aggrieved or affected or any officer, department, board or bureau of the county affected by the determination of the Planning Director on an application for Preliminary Plat for Subdivision may appeal the determination to the Planning Commission in accordance with the procedures of Sec. 17-202(O).

(4) Final Plat

a. Applicability

The provisions of this section shall apply to every proposed subdivision of land that does not meet the definition of Minor Subdivision and for which a Preliminary Plat for Subdivision has been approved and remains valid. After approval of a Preliminary Plat for Subdivision, an application for approval of a Final Plat for Subdivision may be submitted. No application for approval of a Final Plat may be submitted before approval of a Preliminary Plat for Subdivision, unless the subdivision is exempt from such approval.

b. Authority

The Planning Director is authorized to review and approve, approve with conditions, or disapprove a proposed Final Plat for Subdivision pursuant to the procedures and standards of this section.

c. Procedure

1. Initial Submission of Application

The procedures for initiation of an application for approval of a Final Plat for Subdivision, application submission, contents, and form, the pre-application conference, determination of the application's completeness, and preparation of a Staff Report are established in Secs. 17-201(B) through (G), Common Procedures.

2. Development Review Committee

In addition, after the application has been determined to be complete, it shall be referred to the Development Review Committee, which shall review the application, determine its compliance with the requirements of this Code or other applicable county regulations and standards and make recommendations on its approval or disapproval based on the standards of Sec. 17-202(G)(4)d. Within ten (10) working days, each DRC member shall notify the Planning Director in writing whether the development meets or fails to meet the requirements of this Code and of that department. The department shall specifically note the manner in which the plat fails to meet these requirements

3. Review and Action by Planning Director

Within fifteen (15) working days after the application is determined to be sufficient, the Planning Director shall review the application in accordance with the procedures of Sec. 17-201(J).

4. *Approval*

If the Planning Director finds that the application complies with the standards in Sec. 17-202(G)(4)d, the Final Plat for Subdivision shall be approved. The Planning Director shall certify by his signature that the requirements of this Code have been met. A final plat shall not be deemed approved until it has been signed by the County Engineer and by the duly authorized representatives of the water department and the Health Department. [Revised]

5. *Fails to Comply*

(a) If the Planning Director finds that the application fails to comply with the Standards in Sec. 17-202(G)(4)d, Criteria, the applicant shall have an opportunity to submit a revised application. At the applicant's request, the Planning Director shall schedule a meeting with the applicant to discuss the application.

(b) A revised application shall be reviewed by the Planning Director within ten (10) working days after its submittal and approved, approved with conditions, or disapproved, based on the standards in Sec. 17-202(G)(4)d. If the application is not resubmitted within sixty (60) calendar days from receipt of notification by the applicant, the application shall be considered withdrawn and shall be subject to the provisions of Secs. 17-201(P)(4) and (5).

d. *Criteria*

A Final Plat for Subdivision shall be approved upon a finding that the applicant has demonstrated all of the following standards are met:

1. The Final Plat complies with the approved Preliminary Plat, including any phasing plan approved as part of the Preliminary Plat and any modifications and conditions of approval required by the Planning Director;
2. The Final Plat for Subdivision complies with the standards in Chapter 7: *Subdivision Standards*; and
3. The Final Plat for Subdivision complies with other relevant provisions of this Code, the conditions of any applicable prior permit, and the regulations of county departments and state agencies, as applicable.

[Existing]

e. *Conditions of Approval*

In approving a Final Plat for Subdivision, the Planning Director may impose appropriate conditions on the approval pursuant to Sec. 17-201(L), Conditions of Approval, to ensure the standards of this section and the other requirements of this Code are met. The conditions shall be included as part of the approval.

- f. **Recordation**
The Final Plat for Subdivision shall be filed for recording in the office of the Clerk of Superior Court of the County prior to the sale or other transfer of any land in the subdivision.
- g. **Effect**
An approved Final Plat for Subdivision, including any conditions, shall run with the land and not be affected by a change in ownership. An approved Final Plat shall be filed for recording in the office of the Clerk of Superior Court of the County within sixty (60) days of its approval. The approval of a Final Plat shall not be deemed to constitute or effect acceptance by the county of any street or other ground shown on the plat.
- h. **Expiration**
 - 1. **General**
If a Final Plat for Subdivision is not recorded in the office of the Clerk of Superior Court of the County within sixty (60) days of its approval, the Final Plat shall expire and be of no further effect. [Revised]
 - 2. **Extension**
An extension of time may be granted pursuant to the procedures and standards of Sec. 17-202(S), Lapse of Approval.
- i. **Amendment**
A Final Plat for Subdivision may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.
- j. **Appeal**
Any person aggrieved or affected or any officer, department, board or bureau of the county affected by the determination of the Planning Director on an application for approval of a Final Plat for Subdivision may appeal the determination to the Planning Commission in accordance with the procedures of Sec. 17-202(O).

(H) Temporary Use/Special Event Permits

- (1) **Applicability**
The provisions of this section shall apply to all proposed temporary uses and special events as set forth in Sec. 17-403, Temporary Uses and Structures.
- (2) **Procedure**
Application and review procedures shall be as set forth in Sec. 17-201(T).
- (3) **Criteria**
A Temporary Use/Special Event Permit shall be approved upon a finding that the temporary use or special event, as proposed, complies with the relevant standards of this Code, and particularly those standards in Section 17-404 (Temporary Uses/Structures and Special Events).

- (4) Conditions**

In approving a Temporary Use/Special Event Permit, the Planning Director may impose appropriate conditions on the permit approval pursuant to Sec. 17-201(L), Conditions of Approval, to ensure the standards of this section and the other requirements of this Code are met. The conditions shall be included as part of the permit approval.
- (5) Expiration**

A Temporary Use/Special Event Permit shall be effective beginning on the date specified in the permit approval, and shall remain effective for the period indicated on the permit, not to exceed a period of six (6) months.
- (6) Amendment**

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

(I) Home Occupation Permit

- (1) Applicability**

The provisions of this section shall apply to all proposed home occupations as set forth in Sec. 17-403 (Accessory Uses and Structures), and particularly those standards in Sec. 17-403(C) (Home Occupations).
- (2) Procedure**

Application and review procedures shall be as set forth in Sec. 17-201(T).
- (3) Criteria**

A Home Occupation Permit shall be approved upon a finding that the home occupation, as proposed, complies with the standards of this Code, including the standards of Section 17-403(Accessory Uses and Structures, and particularly those standards in Sec. 17-403(C) (Home Occupations).
- (4) Conditions**

In approving a Home Occupation Permit, the Planning Director may impose appropriate conditions on the permit approval pursuant to Sec. 17-201(L), Conditions of Approval, to ensure the standards of this section and the other requirements of this Code are met. The conditions shall be included as part of the permit approval.
- (5) Expiration**

A Home Occupation Permit shall be effective beginning on the date specified in the permit approval, and shall remain effective for the period indicated on the permit, or indefinitely, if no period is specified, as long as the ownership and character of the home occupation have not changed.
- (6) Amendment**

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

(J) Fence Permit

- (1) Purpose**

The purpose of this section is to provide a mechanism for reviewing applications for Fence Permits to ensure fences within the county comply with the standards of Sec. 17-603, Fence and Wall Standards.

- (2) **Authority**
The Planning Director is authorized to review and approve, approve with conditions, or disapprove an application for a Fence Permit pursuant to the procedures of this section and the standards of Sec. 17-603, Fence and Wall Standards.
- (3) **Applicability**
No fence, except those exempted pursuant to Sec. 17-202(J)(4), Exemptions, shall be erected, placed, constructed or structurally altered without the owner having first obtained a Fence Permit from the Planning Director, pursuant to the procedures in this section and the standards of Sec. 17-603, Fence and Wall Standards.
- (4) **Exemptions**
Fences serving agricultural uses are exempt from the requirements of this section.
- (5) **Procedure**
Application and review procedures shall be as set forth in Sec. 17-201(T).
- (6) **Standards**
A Fence Permit shall be approved upon a finding that the applicant has demonstrated the application complies with the standards of Sec. 17-603, Fence and Wall Standards.
- (7) **Conditions**
In approving a Fence Permit, the Planning Director may impose appropriate conditions on the permit approval pursuant to Sec. 17-201(L), Conditions of Approval, to ensure the standards of this section and the other requirements of this Code are met. The conditions shall be included as part of the permit approval.
- (8) **Expiration**
- a. ***Time Limit for Commencement of Work***
If the work described in any Fence Permit has not begun within six (6) months from the date of issuance, the Fence Permit shall expire and be void.
- b. ***Extension***
An extension of time not to exceed six (6) months may be granted pursuant to the procedures and standards of Sec. 17-202(S), Lapse of Approval.
- (9) **Amendments**
A Fence Permit may be amended, extended, or modified only in accordance with the procedures established for its original approval.
- (K) **Sign Permits**
- (1) **Purpose**
The purpose of this Section is to provide a mechanism for reviewing applications for Sign Permits to ensure signs within the county comply with the standards of Sec. 17-609, Signage.
- (2) **Authority**
The Planning Director is authorized to review and approve, or disapprove an application for a Sign Permit pursuant to the procedures of this Section and the standards of Sec. 17-609, Signage.

- (3) **Applicability**
No sign, except those specified in Sec. 17-202(K)(4), Signs for Which a General Permit Has Been Granted, shall be erected, placed, reconstructed or structurally altered without the sign owner having first obtained a Sign Permit from the Planning Director, pursuant to the procedures in this Section and the standards of Sec.17-609, Signage.
- (4) **Signs for Which a General Permit Has Been Granted**
Pursuant to Chapter 6 of this Code, a general permit has been granted for those signs listed in Sec. 17-609(D), and no application for a Sign Permit is required so long as the standards of Section 17-609 (Sign Standards) are met:
- (5) **Procedure**
Application and review procedures shall be as set forth in Sec. 17-201(T).
- (6) **Criteria**
A Sign Permit shall be approved upon a finding that the applicant has demonstrated the application complies with the standards of Sec. 17-609, Signage.
- (7) **Expiration**
If the work described in any Sign Permit has not begun within six (6) months from the date of issuance, the Sign Permit shall expire and be void.
- (8) **Amendments**
A Sign Permit may be amended, extended, or modified only in accordance with the procedures established for its original approval.
- (9) **Appeals**
Any person aggrieved or affected or any officer, department, board or bureau of the county affected by the determination of the Planning Director on an application for approval of a Sign Permit may appeal the determination to the Planning Commission in accordance with the procedures of Sec. 17-202(O). The appeal shall be heard within 45 days of the filing of the written Notice of Appeal.
- (L) **Soil Erosion and Sedimentation Control Permits**
- (1) **Authority**
The County Engineer is authorized to review and approve, approve with conditions, or disapprove an application for a Soil Erosion and Sedimentation Control Permit pursuant to the procedures and standards of Chapter 8.40, Soil Erosion and Sedimentation Control.
- (2) **Applicability and Exemptions**
No land-disturbing activity, as defined in Chapter 8.40, shall be undertaken by any person, unless exempted pursuant to Sec. 8.40.030, *Exemptions*, without a Soil Erosion and Sedimentation Control Permit approved pursuant to Chapter 8.40, Soil Erosion and Sedimentation Control.
- (3) **Procedures**
The procedures and requirements for submittal and review of an application for a Soil Erosion and Sedimentation Control Permit are established in Chapter 8.40, Soil Erosion and Sedimentation Control.

(M) Change, Continuation, or Enlargement of Nonconformity**(1) Applicability**

The provisions of this section shall apply whenever the provisions of Chapter 8: *Nonconformities* provide that change, continuation, or enlargement of a nonconforming situation may be specifically approved by the Planning Commission.

(2) Authority

The Planning Commission is authorized to review and approve, approve with conditions, or disapprove an application for a Change, Continuation, or Enlargement of Nonconformity pursuant to the procedures and standards of this section and of Chapter 8: *Nonconformities*.

(3) Procedure**a. Initial Submission of Application, Staff Review, Public Notification and Scheduling of Public Hearing**

The procedures and requirements for initiation of an application for a Change, Continuation, or Enlargement of Nonconformity, application submission, application contents, application form, the optional pre-application conference, determination of the application's completeness, staff review and preparation of a Staff Report, scheduling the public hearing, and public notification are established in Secs. 17-201(B) through (I), Common Procedures.

b. Review and Action by Planning Commission

After public notification and the scheduling of a public hearing, the Planning Commission shall conduct a public hearing on the application pursuant to Sec. 17-201(K), Public Hearing Procedures. At the public hearing, the Planning Commission shall consider the application, the relevant support materials, the Staff Report, and the public testimony and evidence given at the hearing. Within a reasonable period of time after the close of the public hearing, the Planning Commission shall either approve, approve with conditions, or disapprove the application based on the criteria in Sec. 17-202(M)4).

(4) Criteria

An application for Change, Continuation, or Enlargement of Nonconformity shall be approved only upon a finding that the applicant has demonstrated all of the following criteria are met:

- a.** The use or structure for which a change, continuation, or enlargement is sought was a legal nonconformity within one year of when the application for change, continuation, or enlargement was submitted.
- b.** The change, continuation, or enlargement of nonconformity will comply with current zoning, health, and building requirements.
- c.** There will be no adverse impacts on surrounding properties resulting from the change, continuation, or enlargement of nonconformity.
- d.** The nonconforming structure, land, or use of land at issue cannot economically be modified or removed so as to be suitable for a conforming structure or use.

- (5) **Conditions of Approval**
In approving a Change, Continuation, or Enlargement of Nonconformity, the Planning Commission may impose appropriate conditions on the permit approval pursuant to Sec. 17-201(L), *Conditions of Approval*, to ensure the standards of this section and the other requirements of this Code are met. The conditions shall be included as part of the permit approval.
- (6) **Effect**
Issuance of a Change, Continuation, or Enlargement of Nonconformity Permit shall authorize only the particular change, continuation, or enlargement of nonconformity that is approved in the permit. Approval of a Change, Continuation, or Enlargement of Nonconformity, including any conditions, shall run with the land and not be affected by a change in ownership.
- (7) **Expiration**
a. **General**
The Planning Commission may prescribe a time limit within which development activity shall begin or be completed, or both, on the Change, Continuation, or Enlargement of Nonconformity. Failure to begin and/or complete such development activity within the time limit specified shall void the Change, Continuation, or Enlargement of Nonconformity. Unless specified otherwise by the Planning Commission, a Building Permit shall be issued for the development approved by the permit within six (6) months from the date of approval, and development shall be completed on the Building Permit within the time allowed under the county's building regulations, or the approval of the Change, Continuation, or Enlargement of Nonconformity shall expire and be void.
b. **Extension**
No extension shall be available for a Change, Continuation, or Enlargement of Nonconformity beyond the period of the original approval.
- (8) **Amendments**
Approval of a Change, Continuation, or Enlargement of Nonconformity may be amended or modified only in accordance with the procedures and standards established for its original approval.
- (9) **Appeal**
Any person aggrieved by the decision of the Planning Commission with regard to the Change, Continuation, or Enlargement of Nonconformity may appeal the decision to the BOCC pursuant to Sec. 17-202(O), *Appeals*, by filing a written appeal of the decision with the Planning Director.
- (N) **Interpretations**
(1) **Authority**
Interpretations of zoning district boundaries and of the text of this Code as it relates to zoning (including interpretations of the zoning district boundaries and interpretations of whether an unspecified use falls within a use classification, use category, or use type allowed in a zoning district) shall be made by the Planning Director. Interpretations of subdivision standards and procedures shall also be made by the Planning Director, including interpretations of the text of Chapter 7, *Subdivision Standards*, and interpretations of procedures governing subdivision review and approval.

- (2) **Initiation**
A written interpretation may be requested by the BOCC, the Planning Commission, any resident or landowner, or any person having a contractual interest in land in the county.
- (3) **Procedure**
- a. ***Submission of Request for Interpretation***
Before a written interpretation shall be provided by the Planning Director, a Request for Interpretation shall be submitted to the Planning Director in writing in a form established by the Planning Director and made available to the public.
- b. ***Rendering of Interpretation***
Within thirty (30) days after the Request for Interpretation is submitted, the Planning Director shall review the request in accordance with the procedures of 17-201(J). The Planning Director shall evaluate the request in light of the Comprehensive Plan, this Code, the Official Zoning District Map, and other relevant codes and statutes, consult with the County Attorney and other affected county staff, as necessary, and then render an interpretation.
1. ***Zoning Map and Boundaries of Districts***
In the case of a request for interpretation of the Official Zoning District Map and/or the location of zoning district boundaries, the Planning Director shall apply the rules in Secs. 17-105(C) and (D).
2. ***Unspecified Uses***
In the case of a request for determination of whether a specific use is deemed to be within a use classification permitted in a particular zoning district, the Planning Director shall apply the rules in Sec. 17-401(A)(4), Unlisted Uses.
- c. ***Form***
The interpretation shall be in writing, approved as to form by the County Attorney, and sent to the applicant by mail within seven (7) days after the interpretation is made by the Planning Director.
- (4) **Appeal**
Any person aggrieved by a written interpretation from the Planning Director may appeal the interpretation to the Planning Commission pursuant to Sec. 17-202(O), Appeals. The Planning Commission shall review the appeal in accordance with the procedures and standards of Sec. 17-202(O).
- (5) **Official Record**
The Planning Director shall maintain a record of written interpretations (including the determinations of the Planning Commission upon appeal) that shall be available for public inspection, upon reasonable request, during normal business hours.
- (O) **Appeals**
- (1) **Right of Appeal**
- a. ***Decisions of Planning Director***
Any person aggrieved or affected or any officer, department, board, or bureau of the county affected by any order, decision, determination, or interpretation of the

Planning Director may appeal such order decision, determination, or interpretation to the Planning Commission.

b. *Actions of the Planning Commission*

Unless otherwise indicated by the provisions of this Code, any person aggrieved or affected or any officer, department, board, or bureau of the county affected by any order, decision, determination, or interpretation of the Planning Commission may appeal such order decision, determination, or interpretation to the BOCC.

(2) Appeal Procedure

a. *Initiation*

1. *Decisions of Planning Director*

An appeal from a decision of the Planning Director shall be initiated by filing a written Notice of Appeal with the Planning Director within ten (10) business days of the date of the decision of the Planning Director.

2. *Actions of the Planning Commission*

An appeal from an action of the Planning Commission shall be initiated by filing a written Notice of Appeal with the Planning Director within five (5) business days of the date of the action of the Planning Commission.

b. *Contents of Appeal*

The written Notice of Appeal shall be submitted on the form established by the Planning Director and made available to the public, along with the fee as established by the BOCC. The appeal shall specify the grounds for the appeal, a statement of the error or improper order, decision, determination or interpretation, the date of that decision, and all support materials related to the decision.

c. *Record*

Upon receipt of the written Notice of Appeal, the Planning Director shall transmit all the papers, documents, and other materials relating to the decision appealed to the BOCC or the Planning Commission, whichever is authorized to hear the appeal. These materials shall constitute the record of the appeal.

d. *Scheduling of Notice and Hearing*

The BOCC or the Planning Commission, whichever is authorized to hear the appeal, shall hear the appeal at its next regularly scheduled meeting at which the matter may be heard in compliance with the notice requirements of this Code but no earlier than seven (7) days following the filing of the Notice of Appeal.

e. *Hearing*

At the hearing, the person making the appeal may appear in person or by agent or attorney, and shall state the grounds for the appeal and identify any materials or evidence from the record to support the appeal. The Planning Director shall be given an opportunity to respond, along with any other person the BOCC or the Planning Commission, whichever is authorized to hear the appeal, deems necessary. After the conclusion of the hearing, the BOCC or the Planning Commission, whichever is authorized to hear the appeal, shall either affirm, partly affirm, modify or reverse the order, decision, determination, or interpretation, based on the record before the Planning Director or Planning Commission and on the requirements and standards of this Code. The BOCC or Planning Commission shall reverse or modify the decision of the Planning

Director or Planning Commission only if: (1) the factual findings of the Planning Director or Planning Commission are not supported by substantial evidence; or (2) the Planning Director or Planning Commission failed to apply correctly the applicable regulations, criteria, or standards. The concurring vote of a majority of a quorum of the BOCC or the Planning Commission, whichever is authorized to hear the appeal, shall be necessary to reverse any order, decision, determination, or interpretation on appeal.

(3) Effect of Appeal

A pending appeal stays all proceedings in furtherance of the action appealed from, unless the Planning Director certifies to the BOCC or the Planning Commission, whichever is authorized to hear the appeal, after the Notice of Appeal is filed, that, by reason of facts stated in the certificate, a stay would, in that official's opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the BOCC or the Planning Commission, whichever is authorized to hear the appeal, or by a court of record on application, on notice to the Planning Director, and on due cause shown.

(P) Beneficial Use Determination

(1) General

If after the submission and decision on the appropriate applications for development approval or permits for a plan for the development of land a landowner in the county is of the opinion that an economically beneficial use of that landowner's land has been denied by the application of this Code, then the procedures of this section shall be used prior to seeking relief from the courts in order that any denial of economically beneficial use of land may be remedied through a non-judicial forum.

(2) Purpose

The purpose and intent of the BOCC is that every landowner in the county enjoy an economically beneficial use of land. It is also the purpose and intent of this section to provide for relief to the landowner, where appropriate, from the application of this Code. The procedures set forth in this section are intended to permit landowners who believe they have been deprived of economically beneficial use of their land to apply to the BOCC for relief sufficient to provide an economically beneficial use of the land.

(3) Procedure

a. *Application for an Appeal for Beneficial Use Determination*

An Appeal for a Beneficial Use Determination may be filed by a landowner at any time with the Planning Director, along with an application fee established pursuant to Sec. 17-201(B), Application Contents, Submission Schedule, and Fees.

b. *Contents of Application*

The application shall be submitted in a form established by the Planning Director and made available to the public, and shall include the following:

1. The landowner's name and address.
2. A legal description and the street address (when a street address is available) of the land.

3. Documentation of the date of purchase and the purchase price of the land, and any offers to purchase the land made by any person, corporation, or association, within the last three years.
4. A description of the physical features present on the land, the land's total acreage, the present use of the land, and the use of the land at the time of the adoption of this Code.
5. Evidence of any investments made by the landowner to improve the land, the date the improvements were made, and the costs of the improvements.
6. A description of what uses of land were available when the land was purchased by the landowner.
7. A description of the regulations and uses permitted which are alleged to result in an elimination of economically beneficial use of the land.
8. All appraisals, studies, and any other supporting evidence, and any actions taken by the county related to the land.
9. A description of the use that the landowner believes represents the minimum legally required economically beneficial use of the land and all documentation, studies, and other supporting evidence thereof.

c. *Determination of Completeness*

The Planning Director shall determine if the application is complete and includes data in sufficient detail to evaluate the application to determine if it complies with the appropriate substantive requirements of this section.

1. If the Planning Director determines the application is not complete, a written notice shall be mailed to the applicant specifying the application's deficiencies. No further action shall be taken on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies within thirty (30) days, the application shall be considered withdrawn and shall be subject to the provisions of Secs. 17-201(P)(4) and (5).
2. When the application is determined to be complete, the Planning Director shall notify the applicant, in writing, of the application's sufficiency, and forward the application to the Hearing Officer for the scheduling of a hearing.

d. *Establishment of Date for Hearing and Notice*

Within thirty (30) calendar days of the date that the application has been determined to be complete by the Planning Director, the Hearing Officer shall schedule a hearing on the Appeal for Beneficial Use Determination. The Planning Director shall provide the applicant and all landowners within one hundred fifty (150) feet of the land subject to the Appeal for Beneficial Use Determination at least fifteen (15) days' notice of the hearing by regular mail.

e. *Hearing by Hearing Officer*

At the hearing, the applicant or the applicant's representative shall present the applicant's case and the County Attorney or another attorney designated by the county shall represent the county. All evidence presented shall be under oath, and the parties involved shall be permitted to cross-examine witnesses. The sworn testimony and evidence shall pertain to the standards set forth in Sec. 17-202(P)(4), Beneficial Use Standards, as to whether the applicant has been deprived of an economically beneficial use of the land and the standards in Sec. 17-202(P)(5), Granting of Relief, pertaining to the degree of relief needed to provide the landowner with an economically beneficial use of the land.

f. *Findings of the Hearing Officer*

Within thirty (30) days of the close of the hearing, the Hearing Officer shall prepare recommended findings of fact and a proposed order for the consideration of the BOCC. The findings and recommendations of the Hearing Officer as to whether the land is provided economically beneficial use shall be based on the evidence submitted and the standards in Sec. 17-202(P)(4), Beneficial Use Standards. If the Hearing Officer finds that the applicant has been denied economically beneficial use of the subject land, then the Hearing Officer shall recommend a use that permits an economically beneficial use and results in a minimum change from the regulations of this Code as they apply to the subject land, pursuant to the standards set forth in Sec. 17-202(P)(4), Beneficial Use Standards, and Sec. 17-202(P)(5), Granting of Relief, or other relief as is determined appropriate. The Hearing Officer's recommended findings of facts and proposed order shall be in writing and shall detail the basis of the conclusions from the record of the hearing.

g. *Action by BOCC*

The Planning Director shall schedule a hearing before the BOCC within thirty (30) days of the date the Hearing Officer issues the recommended findings of fact and proposed order. The Planning Director shall provide the applicant and all landowners within three hundred (300) feet of the land subject to the Appeal for Beneficial Use Determination at least fifteen (15) days' notice of the hearing by mail. At the hearing, the BOCC shall approve the findings of fact and proposed order of the Hearing Officer, or may attach conditions, modify, or reverse the findings of fact or proposed order of the Hearing Officer, based on the standards of Sec. 17-202(P)(4), Beneficial Use Standards, and Sec. 17-202(P)(5), Granting of Relief. The review by the BOCC shall be of the record before the Hearing Officer, and no new evidence shall be entertained. If the BOCC attaches conditions, modifies or reverses the findings of fact or proposed order, it shall do so only where the record of the hearing indicates that the Hearing Officer is unsupported by the record, or that the proposed order is not in conformance with the standards of Sec. 17-202(P)(4), Beneficial Use Standards, and Sec. 17-202(P)(5), Granting of Relief.

(4) *Beneficial Use Standards*

In determining if a landowner has been deprived of an economically beneficial use of land, the Hearing Officer and BOCC shall take into account the following factors:

a. *Economically Beneficial Use*

In making the determination of whether the land is provided an economically beneficial use, the Hearing Officer/BOCC shall first evaluate the uses of the land as provided by this Code, and the uses of land in relation to the uses provided similarly situated lands. For the purposes of this section, economically beneficial

use means the opportunity to make a return equivalent to that which would have been received from a conservative financial investment. Transitory economic issues shall not be relevant to this determination.

b. *Diminution in Value*

The market value of the land, as established by the comparable sales approach, prior to adoption of this Code, which caused the landowner to apply for relief shall be compared to the market value of the land, as established by the comparable sales approach, with the regulations as applied. Market value of the land prior to the adoption of this Code shall constitute its highest and best use on ___ [*one day prior to the effective of this Code, as amended*] or the date of purchase of the land, whichever is later, and any other land value/appraisal information that the applicant would like to be considered. All appraisals shall be proposed by qualified licensed appraisers, and shall follow the best professional practices as established by the profession. A mere diminution in market value is not sufficient to support a determination of denial of economically beneficial use.

c. *External Costs*

1. The amount or nature of any subsidy that may be required by the county, neighbors, purchasers, tenants, or the public-at-large if the uses allowed under this Code are modified; or
2. Any other adverse effects on the county and its residents.

d. *Current State of the Law*

The state of the law established by the United States Supreme Court, the federal Circuit Courts of Appeals, and the Georgia Supreme Court, relevant to these standards.

(5) *Granting of Relief*

a. *Relief*

If the finding is that a landowner has been deprived economically beneficial use of land, or is otherwise entitled to relief pursuant to the standards of this section, relief shall be granted.

b. *General*

In granting relief, the Hearing Officer may recommend and the BOCC may adopt any legally available incentive or measure reasonably necessary to offset any substantial economic hardship, and may condition such incentives upon approval of specific development plans. If there is a finding that the denial of the application would create a substantial economic hardship, the Hearing Officer may recommend and the BOCC may consider additional relief to provide an appropriate increase in market value or other benefit or return to the applicant sufficient to offset the substantial economic hardship. The types of incentives that the Hearing Officer may recommend and the BOCC may consider includes, but are not limited to, the following:

1. An amendment of the Zoning District Map (Rezoning) to a more appropriate classification, approval of a Variance, approval of a Site Plan, or other appropriate land-use regulatory action that will enable the applicant to realize a reasonable return on the property;

2. An opportunity to transfer density or cluster development on other property;
3. A waiver of permit fees;
4. Development finance assistance;
5. Approval of development on some portion of the property; or
6. Acquisition of all or a portion of the property at market value.

c. *Minimum Increase*

In granting relief, the landowner shall be given the minimum increase in use density/intensity or other possible concessions from this Code in order to permit an economically beneficial use of the land or a use that is determined to be required by law. The highest use, or even an average or generally reasonable expectation, is not required or intended as the appropriate remedy. The following guidelines shall be used for determining the minimum economically beneficial use of land and, therefore, the amount of relief to be granted a landowner in order to reach that minimum.

1. A minimum economically beneficial use of the land should be one that does not have any governmental subsidy attached to the long-term safe occupation of the land. If such a subsidy is needed, then that should be reflected by lowering the use intensity that is considered a minimum economically beneficial use on a market valuation basis.
2. A use common to the county, although it may not involve further development of the land, is considered an economically beneficial use. Attention shall also be given to land uses that are considered to be the lowest intensity in the county but which uses still provide for occupation and living within the county. These land uses, as well, shall be considered economically beneficial uses.
3. The actual condition of the land shall be considered. The reality of limited development potential, given the natural condition of the land, shall not be attributed to the regulations applied to the land. If the land is such that it cannot safely accommodate development with normal grading and clearing practices, this fact shall lower the intensity of use that is considered a minimum economically beneficial use.
4. The potential for damages to either residents or land shall be assessed in determining economically viable use. The need for a governmental subsidy to future landowners shall be considered, and the cost of such subsidies shall be deducted from the otherwise established minimum economically beneficial use.
5. Expectations shall, in general, not be considered. Only reasonable expectations backed by investments as required by the current state of the law shall be considered.

6. The current state of law established by the United States Supreme Court, the federal Circuit Court of Appeals, and the Georgia Supreme Court, relevant to the granting of relief.

d. ***Appeal***

The decision of the BOCC may be appealed to a court of law.