

# PROCEDURES



## Key Changes in Article 151.2:

- This article consolidates all the development review procedural material into a single location, and includes a new section on how to use the article
- There is a new consolidated set of standard review procedures that are used in the review of every application. The standards are listed once instead of repeated in different sections (as is the case in the current ordinance)
- There are broadened pre-application conference requirements for 10 of the 25 specific review procedures
- There is a new neighborhood meeting requirement for subdivisions and planned developments
- There are new application completeness requirements
- These standards suggest codified notice standards that mirror state requirements, instead of the current expanded (150') notice provided (expanded notice may continue to be provided via policy instead of codified standard)
- This article includes a new summary table outlining the review authorities and process for each of the specific review procedures
- There are several new procedures added, including administrative adjustments, development agreements, and comprehensive plan amendments
- Several currently uncoded procedures (like building permits, certificates of occupancy, or minor CAMA permits) are now codified
- Each specific review procedure is organized to follow a standardized format and includes a procedural flow chart showing the steps in the approval process
- Each development review procedure includes approval criteria
- The conditional use permit has been abolished (and removed from the planned development procedure)
- The special use permit requirement for subdivisions has been removed (since it introduces a quasi-judicial procedure into a ministerial permit type)
- Quasi-judicial procedures, like the special use permit, are heard by only one review authority during a quasi-judicial public hearing
- The residential/commercial distinction between site plan procedures is converted to a major/minor process, and the Planning Board is authorized to decide major site plans
- The major site plan procedure has been simplified and allows applicants to delay state and federal permits until after preliminary plat approval (to help reduce expense and foster predictability)
- There is a codified vested rights determination process
- The procedures have been updated to address changes in the North Carolina statutes made through the summer of 2017
- The UDO Administrator is authorized to review and decide final plats
- The zoning map amendment process has been revised to recognize conditions proposed by the applicant as part of the application process

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# ARTICLE 151.2 PROCEDURES

## 2.1 HOW TO USE THIS ARTICLE<sup>20</sup>

This section describes the structure and contents of Article 151.2: Procedures

### A. Article Contents

Article 151.2: Procedures, is comprised of two sections: a set of standard (or common) review procedures applicable to all application types and a set of specific development application review procedures that include the rules pertaining to each individual application type.

### B. Steps in Process

1. The first step in using these standards is to determine the specific type(s) of development application to be submitted. **Table <>, Specific Development Review Procedures**, describes all the specific development application review procedures in this Ordinance and the review authority who decides them.
2. The second step is to examine each of the standard review procedures in **Section 2.2** to determine how to file an application and how it is processed.
3. The third step is to find the rules pertaining to the specific application type being submitted in **Section 2.3** to better understand the steps and the criteria used in the decision-making process.

**Suggest Illustration showing process steps**

### C. For Additional Information

Applicants who are unsure of how to file an application should schedule a pre-application conference with the Udo Administrator (see **Section <>, Pre-application Conference**) to better understand the review requirements and relevant procedural steps associated with their particular application.

## 2.2 STANDARD REVIEW PROCEDURES<sup>21</sup>

### 2.2.1 PURPOSE AND INTENT

This section describes the standard (or common) procedural steps and rules generally applicable to all development applications reviewed under this Ordinance, unless otherwise specified in Section <>, **Specific Review Procedures**. It is the intent of this section to establish a uniform set of processes to foster greater efficiency and predictability for applicants, adjacent landowners, elected officials, and County staff.

### 2.2.2 PRE-APPLICATION CONFERENCE<sup>22</sup>

#### A. Purpose

The purpose of a pre-application conference is to provide an opportunity for the applicant to learn about the submittal requirements, procedures, and standards applicable to a particular development application. A pre-application conference is also an opportunity for County staff to become familiar with, and offer preliminary comments about the scope, features, and impacts of the proposed development, as it relates to the standards in this Ordinance.

#### B. Applicability

##### 1. Pre-Application Conference Required

A pre-application conference between the applicant and County staff is required before submittal of the following applications:

- a. Administrative adjustments;
- b. Development agreements;

<sup>20</sup> This is a new section that informs potential applicants how the procedures article is structured.

<sup>21</sup> This is a new section described on Pages 38 and 39 of the Evaluation Report that consolidates the procedures currently found in many locations throughout the UDO, including in Sections 151.230-151.247 (collectively called the Major Subdivision Design Requirements, Review Procedures, and Approval Process) and Sections 151.260-151.263 (collectively called the Minor Subdivision Requirements, Review and Approval Process), Section 151.298 (Planned Development), and Section 151.017 (Building Permit). This section consolidates the procedural steps common to most applications from submittal through approval, deferral, continuance, and withdrawal (as appropriate). The specific review procedures in the next section then refer back to the standard review procedures rather than restating them. This is an efficient way to list standards without need for repetition which adds bulk and the possibility of inconsistency as the UDO evolves over time.

<sup>22</sup> This section builds on the standards in Section 151.499 of the current code which requires pre-application conferences for special use permits associated with a subdivision, and encourages a conference for all other applications. This section goes farther by requiring mandatory pre-application conferences for more application types and sets out additional information regarding the procedure and effect. The County may wish to be more specific with respect to submittal requirements.

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### Section 2.2 Standard Review Procedures<sup>20F</sup>

#### 2.2.3 Neighborhood Meeting<sup>22F</sup>

- c. Major site plans;
- d. Planned developments;
- e. Preliminary plats;
- f. Special use permits;
- g. UDO text amendments;
- h. Variances (to include flood hazard area variances);
- i. Vested rights determinations; and
- j. Zoning map amendments.

#### 2. Pre-Application Conference Optional

A pre-application conference between the applicant and County staff is optional before submittal of the following applications:

- a. Appeals;
- b. CAMA minor permits;
- c. Comprehensive plan amendments;
- d. Final plats;
- e. Interpretations;
- f. Minor site plans;
- g. Minor subdivisions;
- h. Temporary use permits; and
- i. Zoning compliance permits.

#### 3. Pre-Application Conference Not Conducted

A pre-application conference is not required or conducted as part of applications filed by the County, or for the following:

- a. Building permits;
- b. Certificates of occupancy;
- c. Exempt subdivisions;
- d. Expedited subdivisions;
- e. Floodplain development permits;
- f. Sign permits; and
- g. Transfer plats.

#### C. Scheduling

Applicants shall contact the UDO Administrator to schedule a pre-application conference.

#### D. Procedure

1. Following receipt of a request for a pre-application conference, the UDO Administrator shall schedule the conference and notify the applicant of the time and location. During the conference, County staff members will explain the application review process and any special issues or concerns regarding the subject proposal.
2. The applicant is encouraged to submit a sketch or conceptual plan, if appropriate, to County staff during the pre-application conference.
3. In cases where a pre-application conference is required, the UDO Administrator shall forward a brief written summary of the issues discussed during the pre-application conference to the applicant for inclusion with the application materials.

#### E. Effect

1. When required, a completed pre-application conference entitles an applicant to take the next step in the application process. Applications types requiring a pre-application conference will not be accepted until after the mandatory pre-application conference has been completed.
2. Discussions at a pre-application conference are not binding on the County and do not constitute submittal for formal review of an application.

## 2.2.3 NEIGHBORHOOD MEETING<sup>23</sup>

#### A. Purpose

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

<sup>23</sup> This is a new procedure described on Page 38 of the Evaluation Report. It is required for major subdivisions and planned developments, and is optional for all other application types. There is also a provision that allows the BOC to require a neighborhood meeting during the review process if they consider it necessary. The standards set out the process for conduct of the meeting. Staff is not required to attend, but if they do, they should limit their discussion solely to the applicable code requirements and review procedures.

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#### 2.2.4 Application Submittal23F

#### B. Applicability

1. A neighborhood meeting, conducted in accordance with the standards of this section, shall be conducted prior to submittal of an application for the following applications:
  - a. Major subdivisions;
  - b. Minor subdivisions;
  - c. Planned developments; and
  - d. Zoning map amendments
2. A neighborhood meeting, conducted in accordance with the standards of this section, is optional for any other proposed development application.
3. The Board of Commissioners may require an applicant to conduct a neighborhood meeting (even for applications not subject to mandatory neighborhood meeting requirements prior to filing an application) prior to taking action on the development application. The BOC may require this meeting by a simple majority vote on a motion. In these cases, the public hearing is continued to a date after the applicant has had an opportunity to conduct a neighborhood meeting.

#### C. Procedure

When a neighborhood meeting is conducted, it shall comply with the following requirements:

##### 1. Timing

The applicant shall hold the neighborhood meeting prior to submittal of an application, or by a time directed by the BOC (as applicable). The meeting shall be held at a time of day when the maximum number of neighbors may attend.

##### 2. Form

The neighborhood meeting can take the form of a meeting or gathering between the applicant, or the applicant's representative, and landowners or other interested parties. Nothing shall prohibit multiple meetings from taking place, provided all meetings are conducted in accordance with these standards.

##### 3. Notification

- a. The applicant shall provide notification of the meeting, by mail, a minimum of 10 days in advance of the meeting, to all landowners within 300 feet of the land subject to the application, as shown on the most recent County tax listing.
- b. Failure of a party to receive notice of the meeting shall not invalidate the application.

##### 4. Information Provided

The applicant shall provide the following information to those attending a meeting:

- a. A description of the proposed development;
- b. The purpose of the neighborhood meeting;
- c. The development review procedure(s) the application will follow;
- d. The potential for changes in the applicant's development proposal as it proceeds through the review process;
- e. Sources of further information about the development review process; and
- f. Any additional information that would promote understanding of the development proposal.

##### 5. Conduct of Meeting

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

##### 6. Staff Attendance

County staff may, but are not required to, attend a neighborhood meeting. Staff members shall not act as facilitators or become involved in discussion about a development proposal though they may provide information about County requirements or procedures.

#### D. Summary

1. Prior to submitting an application, or as directed by the BOC, the applicant shall submit a written summary of the neighborhood meeting that includes:
  - a. The date, time, and location of the meeting;
  - b. The method and date of notification about the meeting;
  - c. A list of landowners notified about the meeting;
  - d. A list of meeting attendees;
  - e. The description of the development proposal presented to the attendees; and
  - f. A summary of attendee comments, ideas, and suggestions from citizens to be incorporated into the development proposal.
2. The written summary shall be included with the application materials and be made available to the public for inspection.

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### Section 2.2 Standard Review Procedures<sup>20F</sup>

#### 2.2.4 Application Submittal<sup>23F</sup>

#### 2.2.4 APPLICATION SUBMITTAL<sup>24</sup>

##### A. Authority to File Applications

Unless expressly stated otherwise in this Ordinance, development applications associated with a particular lot or site reviewed under this Ordinance shall be submitted by the landowner, contract purchaser, or other person having a recognized property interest in the land on which development is proposed.

##### B. Application Content<sup>25</sup>

The UDO Administrator is authorized to establish the application content and forms, which shall be maintained in the offices of the Planning Department.

##### C. Application Fees<sup>26</sup>

1. The Board of Commissioners shall establish application fees, and may amend and update those fees as necessary. Fees shall cover the costs of review, including public notification, as required.
2. No action shall be taken on an application and no application approval shall be issued until all required application fees are paid in full.

##### D. Submittal and Review Schedule<sup>27</sup>

1. The UDO Administrator is authorized to and shall establish specific rules for submittal and review schedules (including time frames for review) for the various types of development applications, which shall be on file and available for inspection in the offices of the Planning Department during normal business hours.
2. Nothing shall require or prohibit the UDO Administrator from reducing the amount of time necessary for review of an application as workflow allows, but the timeframes for public notice in **Section <>, Public Notice**, shall not be reduced.

##### E. Application Submittal

1. Applications shall be submitted to the UDO Administrator in the form established by the UDO Administrator, along with the appropriate application fee.
2. An application shall not be considered to be submitted until determined to be complete in accordance with **Section <>, Determination of Application Completeness**.
3. No application shall be reviewed or decided until after it is determined to be complete.
4. No application shall be accepted for development proposed on a lot or site until property taxes are paid in full, as determined by the Camden County Tax Assessor.

##### F. Burden of Presenting Complete Application

The burden of presenting and maintaining a complete application shall be solely upon the applicant.

##### G. Determination of Application Completeness<sup>28</sup>

On receiving a development application, the UDO Administrator shall determine, within a reasonable period of time, whether the application is complete or incomplete. A complete application is one that:

1. Contains all information and materials identified in the appropriate County documentation as required for submittal of the particular type of application;
2. Is in the form and number of copies required by the appropriate County documentation;
3. Is legible and printed to scale (where appropriate);
4. Is signed by the person with the authority to file the application;

<sup>24</sup> This section includes the provisions related to filing an application for a development approval. It builds on the standards in Sections 151.497 and 151.498 with respect to who may file an application and the application completeness process for zoning, special use, and conditional use permits. These draft provisions are broadened to apply to all application types. One notable difference in these draft standards is that an application is not considered to be submitted until it is determined to be complete. This change is proposed to protect the County from incomplete applications filed as a means of avoiding rule changes under the recent 'permit choice' doctrine adopted by the General Assembly.

<sup>25</sup> NOTE TO STAFF: Some communities adopt an outside procedures manual that contains application forms and submittal requirements. While this is outside the scope of the current UDO process, the County should consider creating such a document. By locating this material outside the codified UDO (and adopting it via BOC resolution) the contents of the manual may be revised without need of a public hearing (as is required if application-related provisions are maintained as appendices in the UDO). In addition, we suggest the UDO Administrator not be allowed to waive or reduce application requirements as this could result in legal challenge under equal protection doctrine.

<sup>26</sup> This section replaces Section 151.010 related to fees in the current code.

<sup>27</sup> NOTE TO STAFF: Review schedules are ideal things to include in a procedures manual.

<sup>28</sup> NOTE TO STAFF: This section replaces Sections 151.498 and 151.500 and broadens their applicability to all application types. It also includes additional criteria for determining completeness. One issue for further discussion is the time period (if any) associated with completeness review. A typical rule of thumb used by other jurisdictions is 7 calendar days. Section 151.498 specifies that applications for special use permit and conditional use permit applications must be submitted at least 20 working days prior to date the application is to be heard. Discussion is also needed regarding Section 151.504 of the current code that appears to allow an incomplete application to advance to the review stage without a conclusion determination of completeness by staff.



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#### 2.2.5 Staff Review and Action<sup>29F</sup>

5. Includes information in sufficient detail to evaluate whether or not the application complies with the applicable review standards in this Ordinance;
6. Is accompanied by the fee established for the particular type of application;
7. Includes material associated with a pre-application conference, if one is required; and
8. Includes the written summary of a neighborhood meeting, if one was conducted prior to application submittal.

#### H. **Application Incomplete**<sup>29</sup>

If the application is incomplete, the UDO Administrator shall notify the applicant of the deficiencies. The applicant may correct the deficiencies and resubmit the application for completeness determination.

#### I. **Application Complete**

1. On determining that the application is complete, it shall be considered as submitted, the County shall notify the applicant and commence review in accordance with the procedures and standards of this Ordinance.
2. Nothing shall preclude the UDO Administrator or a review authority from re-evaluating an application for completeness in the event application inadequacies are revealed at a date subsequent to an application being declared complete.

### 2.2.5 STAFF REVIEW AND ACTION<sup>30</sup>

#### A. **Initial Staff Review**

1. Following application completeness determination, it shall be distributed by the UDO Administrator to all appropriate staff and review agencies for review and comment.
2. Applications shall be reviewed during the review cycle in place when the application is determined to be complete.
3. In considering the application, the UDO Administrator or other County staff (as appropriate), shall review the application, relevant support material, and any comments or recommendations from other staff and review agencies to which the application was referred.
4. If deficiencies in complying with applicable standards of this Ordinance are identified, the UDO Administrator shall notify the applicant of such deficiencies and provide the applicant a reasonable opportunity to discuss them and revise the application accordingly.

#### B. **Staff Report and Recommendation**<sup>31</sup>

1. Except for development agreements, the UDO Administrator shall prepare a written staff report on any application to be reviewed or decided by the Planning Board, Board of Commissioners, or Board of Adjustment.
2. The staff report shall conclude whether the application complies with all applicable review standards of this Ordinance, and recommend one of the decisions authorized for the particular type of application, based on the review standards applicable to the application type, in accordance with **Section <>, Specific Review Procedures**.
3. In cases where the staff finds an application does not comply with the applicable provisions of this Ordinance the staff report shall cite the specific code section(s) in question and the reasons why the application fails to comply.
4. The staff report may identify and recommend modifications to the development proposal that specify how compliance deficiencies might be corrected and how adverse effects of the development application (if any) might be mitigated.
5. A staff report is not required for applications decided by the UDO Administrator, Building Inspector, or other designated County staff, though one may be prepared.

#### C. **Distribution and Availability of Application and Staff Report**

In cases where a staff report is prepared, the UDO Administrator shall take the following actions within a reasonable time period before the application is scheduled for review:

1. Schedule and ensure any required public notice of the application (if appropriate) is prepared in accordance with **Section <>, Public Notice**;
2. Transmit the application, related materials, and staff report to the appropriate review authority (ies);
3. Transmit a copy of the staff report and any related materials to the applicant; and
4. Make the application, related materials, and staff report available for examination by the public.

#### D. **Applications Subject to Decision by Staff**

<sup>29</sup> NOTE TO STAFF: Additional discussion is needed on whether or not the County wishes to include provisions that allow an applicant to declare an application complete without further revision following notification of deficiencies by County staff.

<sup>30</sup> This section builds on the standards in Section 151.500 of the current ordinance.

<sup>31</sup> This section builds on the standards in Section 151.505 and 151.506.B of the current ordinance.



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### Section 2.2 Standard Review Procedures<sup>20F</sup>

#### 2.2.6 Public Notice<sup>31F</sup>

In cases where a development application is decided by the UDO Administrator or Building Inspector, the appropriate County staff member shall make one of the following decisions, based on the review standards set forth in **Section <>, Specific Review Procedures**:

1. Approve the application;
2. Approve the application, subject to conditions necessary to bring the application into compliance with this Ordinance (or other applicable standard); or
3. Disapprove the application.

### 2.2.6 PUBLIC NOTICE<sup>32</sup>

#### A. Public Hearing Scheduling

When a development application is subject to a public hearing, the UDO Administrator shall ensure that the public hearing is scheduled for a regular meeting or a meeting specially called for that purpose by the review authority.

#### B. Public Notification Requirements

##### 1. Applicable State Law

All development applications subject to public notification shall comply with standards in Section 153A-323, as well as Sections 160A-364, 160A-384, and 160A-388 of the North Carolina General Statutes (as appropriate) and the other provisions in this Ordinance related to public notice.

##### 2. Notice Type and Timing

The UDO Administrator shall ensure public notification (whether via published notice, mailed notice, or posted notice) is provided in accordance with the requirements in **Table <>, Public Notice Type and Timing**, for the type of application and the type of notice. In computing the required time periods, the day the notice is published, mailed, or posted shall not be included, but the day of the hearing shall be included.

**TABLE <>: PUBLIC NOTICE TYPE AND TIMING**

APPLICATION TYPE	REVIEW AUTHORITY [1]	TYPE OF PUBLIC NOTIFICATION "X" = REQUIRED		
		PUBLISHED NOTICE [2]	MAILED NOTICE [3]	POSTED NOTICE [4]
Appeal	BOA	·	X [5]	X [5]
Comprehensive Plan Amendment	BOC	X	·	·
Development Agreement	BOC	X [6]	X	X
Major Site Plan	PB	·	X	X
Planned Development	BOC	X [6]	X	X
Preliminary Plat	BOC	[6]	X	X
Special Use Permit	BOC	X [6]	X	X
UDO Text Amendment [7]	BOC	X [6]	·	·
Variance	BOA	·	X	X
Vested Rights Determination	BOC	X [6]	X	·
Zoning Map Amendment [7]	BOC	X [6]	X [8]	X

**NOTES:**  
 [1] "BOA" = Board of Adjustment; "PB" = Planning Board; "BOC" = Board of Commissioners.  
 [2] Published notice shall be provided once a week for 2 successive calendar weeks, with the first notice published between 10 and 25 days before the public hearing.  
 [3] Mailed notice shall be provided to the applicant, affected landowners, and landowners of abutting land

<sup>32</sup> NOTE TO STAFF: This section consolidates the public notice provisions from Sections 151.551 and 151.583. With respect to mailed notice, the General Statutes are clear that mailed notice need only be provided to landowners with lands abutting the subject property. In practice, local governments often exceed this minimum requirement for political reasons. For example, the current ordinance specifies mailed notice of special use permit hearings to landowners within 150 feet of the subject property. We suggest the UDO comply with the state's minimum requirements and that the County address any desired additional mailing requirements as a matter of policy (in a document outside the codified UDO). Additional discussion is required with respect to the application types included here that do not have state-mandated public notice requirements like major site plans and preliminary plats. In addition, some local governments choose to provide public notice prior to consideration of an administrative adjustment.

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2.2.7 Public Meetings and Hearings32F

**TABLE <>: PUBLIC NOTICE TYPE AND TIMING**

APPLICATION TYPE	REVIEW AUTHORITY [1]	TYPE OF PUBLIC NOTIFICATION "X" = REQUIRED		
		PUBLISHED NOTICE [2]	MAILED NOTICE [3]	POSTED NOTICE [4]
<p>between 10 and 25 days before the public hearing.</p> <p>[4] Posted notice shall be provided between 10 and 25 days before the public hearing.</p> <p>[5] Mailed and posted notice shall only be required in cases where an appeal pertains to particular lot or site.</p> <p>[6] Applications that would change the OZM, the range of allowable uses, changes to telecommunications towers or windmills, changes to major subdivision plats, or increases of 50 percent or more in the size of an existing subdivision within 5 miles of a military installation shall require mailed notice be provided via certified mail to the military base commander between 10 and 25 days before the public hearing.</p> <p>[7] Review of text and map amendments (including planned developments) require consideration by the Planning Board, but these reviews are conducted during public meetings, not publically-noticed hearings.</p> <p>[8] Mailed notice shall not be required when a zoning map amendment includes more than 50 lots or tracts owned by at least 50 different landowners, provided the County publishes a map (occupying at least ½ of a newspaper page) showing the boundaries of the affected area in a newspaper of general circulation once a week for 2 successive calendar weeks between 10 days and 25 days before the public hearing. Affected landowners residing outside the newspaper circulation area shall be notified via first class mail pursuant to <b>Section &lt;&gt;, Mailed Notice Requirements.</b></p>				

**3. Published Notice Requirements**

- a. When the provisions of this Ordinance require that public notice be published, the UDO Administrator shall publish a notice in a newspaper that is regularly published at least one time per week and that has general circulation in the County.
- b. The content and form of the notice shall comply with the applicable requirements in the North Carolina General Statutes.

**4. Mailed Notice Requirements**

- a. Mailed notice specified in **Table <>, Public Notice Type and Timing**, shall be mailed to:
  - 1. All landowners subject to the application;
  - 2. The applicant, if different from the landowner; and
  - 3. All landowners entitled to receive notice (including landowners located outside the County) whose address is known by reference to the latest County tax listing.
- b. Notice shall be deemed mailed by its deposit in the United States mail, first class or certified (as appropriate), properly addressed, postage paid.
- c. The content and form of the notice shall comply with the applicable requirements in the North Carolina General Statutes.
- d. A copy of the mailed notice shall be maintained in the Planning Department for public inspection during normal business hours.

**5. Posted Notice Requirements**

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

**6. Constructive Notice**

- a. Minor defects in any notice shall not impair the notice or invalidate proceedings if a bona fide attempt is made to comply with applicable notice requirements. Minor defects in notice may include, but are not limited to:
  - 1. Errors in a legal description;
  - 2. Errors or omissions in the tax listing provided by the County; or
  - 3. Typographical or grammatical errors that do not impede communication of the notice to affected parties.
- b. Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a public hearing and the location of the subject property(ies) shall be strictly adhered to.

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### Section 2.2 Standard Review Procedures<sup>20F</sup>

#### 2.2.7 Public Meetings and Hearings<sup>32F</sup>

### 2.2.7 PUBLIC MEETINGS AND HEARINGS<sup>33</sup>

#### A. Public Meetings

Applications subject to a recommendation by the Planning Board in **Table <>, Specific Development Review Procedures**, shall be heard by the Planning Board during a public meeting (not a public hearing noticed in accordance with **Section <>, Public Notice**). The public meeting shall be open to the public and shall be conducted in accordance with the Planning Board's adopted rules of procedure for public meetings. There is no requirement to allow public comment or testimony during a public meeting.

#### B. Legislative Public Hearings

Applications decided by the BOC, Planning Board, or BOA in **Table <>, Specific Development Review Procedures**, shall be reviewed during a legislative public hearing subject to prior public notification in accordance with **Section <>, Public Notice**. The legislative public hearing shall be open to the public and shall be conducted in accordance with the review authority's adopted rules of procedure for public hearings. Attendees shall be afforded the opportunity to comment or provide testimony during a public hearing, as authorized in the adopted rules of procedure.

#### C. Quasi-Judicial Public Hearings

Some applications in **Table <>, Specific Development Review Procedures**, are decided following a quasi-judicial public hearing, which shall be conducted in accordance with the review authority's rules of procedure and the following:

##### 1. Opportunity to Present Testimony and Evidence

Any party with standing shall be afforded a reasonable opportunity to present testimony and evidence in support of or in opposition to the application, and to ask questions of the applicant, the applicant's representatives, Town staff, and the Town staff's representatives.

##### 2. Limitation on Evidence

The Chair or other presiding officer may limit or exclude incompetent evidence, immaterial evidence, repetitive evidence, and ad hominem attacks.

##### 3. Conflicts of Interest

A review authority member shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall, by majority vote, rule on the objection.

##### 4. Ex Parte Communication

Ex parte communications between an applicant or an affected party and a member of the decision-making body are prohibited. If it occurs, it shall be disclosed during the quasi-judicial public hearing.

#### D. Modification of Application

1. An applicant may revise an application during a public hearing in response to recommendations or suggestions of the review authority.

2. The review authority may approve an application modified during a public hearing provided that the zoning compliance or building permit will not be issued until plans reflecting the agreed upon changes are submitted to and approved by the appropriate County staff members.

#### E. Record

1. A recording shall be made of all public hearings and the recordings shall be kept for at least two years.

2. Accurate minutes shall also be kept of all proceedings, but a transcript need not be made.

3. Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the County for at least two years.

### 2.2.8 REVIEW BY PLANNING BOARD<sup>34</sup>

<sup>33</sup> This section builds on Sections 151.550 and 151.552 of the current ordinance, and adds additional material related to quasi-judicial hearings.

<sup>34</sup> This is a new section for the County's consideration. It standardizes the process for review of certain applications by the Planning Board. Establishing this section here allows it to be cross-referenced in Section 2.3, Specific Review Procedures, instead of being repeated in several specific review procedures.

## ARTICLE 151.2 PROCEDURES

### Section 2.2 Standard Review Procedures<sup>20F</sup>

#### 2.2.9 Action by Review Authority<sup>34F</sup>

If an application requires review and a recommendation by the Planning Board, it shall review the application in accordance with the following procedures:

**A. General**

The review authority shall consider the application, relevant support materials, staff report, and any public comments. One of the decisions authorized for the particular type of application shall be recommended, based on the review standards applicable to the application type, as set forth in **Section <>, Specific Review Procedures**.

**B. Clearly State Factors for Recommendation**

The recommendation shall clearly state the factors considered in making the recommendation and the basis or rationale for the recommendation.

**C. Vote**

1. A decision to recommend approval shall be decided by a simple majority of the members present, a quorum being present.
2. A tie vote by members of the review authority shall be forwarded without a recommendation.

**D. Timing**

Unless an application is deferred or continued in accordance with **Section <>, Deferral and Continuance**, a recommendation on an application shall be made within 60 days from the date of the initial meeting where it is considered.

**E. Failure to Recommend**

If the review authority fails to make a recommendation in the time allotted for review, the application shall be forwarded to the BOC without a recommendation from the review authority.

### 2.2.9 ACTION BY REVIEW AUTHORITY<sup>35</sup>

If an application is subject to a decision by the Planning Board, BOC, or BOA, the review authority shall review and decide the application in accordance with the following procedures:

**A. General**

The review authority shall conduct any required public hearing(s) and consider the application, relevant support materials, staff report, any other review authority recommendations, and public comments. After the conclusion of the public hearing, it shall make one of the decisions authorized for the particular type of application based on the review standards applicable to the application type, as set forth in **Section <>, Specific Review Procedures**.

**B. Remand**

The review authority may remand the application to County staff or another review authority for further consideration of new information or specified issues or concerns, if appropriate. In addition, the BOC may, in accordance with **Section <>, Neighborhood Meeting**, require the applicant to conduct a neighborhood meeting before rendering a decision on the application.

**C. Burden of Persuasion<sup>36</sup>**

1. The burden of persuasion of whether the development, if completed as proposed, will comply with the requirements of this Ordinance remains, at all times, on the applicant.
2. The burden of persuasion of whether the application should be denied for any of the reasons set forth in this Ordinance rests on the party or parties urging that the application should be denied.
3. In the case of appeal of an administrative decision, justification of the order or decision shall be upon the County staff member issuing the order or decision.

**D. Clearly State Factors for Decision**

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

**E. Application Revision**

The review authority may revise an application to apply more restrictive requirements, or to ensure the application better serves the purpose and intent of this Ordinance. In cases where an application is revised by a review authority in this manner, additional public notification or public hearings are not required.

**F. Vote**

**1. Quasi-Judicial Hearing**

Members of a review authority making a quasi-judicial decision shall not participate in or vote in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible

<sup>35</sup> This is a new section for the County's consideration. It standardizes the decision-making process for the BOC, BOA, or Planning Board. Establishing this section here allows it to be cross-referenced in Section 2.3, Specific Review Procedures, instead of being repeated in several specific review procedures.

<sup>36</sup> This section carries forward the relevant portions of Section 151.504 and Section 151.535 in the current Ordinance.

## ARTICLE 151.2 PROCEDURES

### Section 2.2 Standard Review Procedures<sup>20F</sup>

#### 2.2.10 Conditions of Approval

violations of due process include, but are not limited to: a member having a fixed opinion prior to hearing the matter that is not susceptible to change; undisclosed ex-parte communications; a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

#### 2. Legislative Public Hearing

A board member shall recuse themselves from voting on an application where the outcome of the matter being considered is reasonably likely to have a direct, substantial, or readily identifiable financial impact on them or a member of their immediate family.

#### G. Timing

The review authority shall take action on the application as promptly as reasonably possible in consideration of the public interest.

### 2.2.10 CONDITIONS OF APPROVAL

- A. Conditions of approval may be applied to the approval of an application subject to a quasi-judicial procedure as identified in **Table <>, Specific Development Review Procedures**, as deemed necessary by a review authority.
- B. Conditions of approval shall be limited in both type and amount to those that address:
  - 1. The conformance of the development to this Ordinance or other applicable County ordinances;
  - 2. The conformance of the development to the adopted policy guidance; and
  - 3. The impacts reasonably expected to be generated by the development on the public and surrounding land.
- C. All conditions of approval shall be expressly set forth in the development permit or approval, and may be subject to appeal in accordance with **Section <>, Appeal**.

### 2.2.11 NOTIFICATION OF DECISION<sup>37</sup>

#### A. Content

The notification of decision on an application shall be issued in the name of the applicant or applicant's agent, as appropriate, directed to the address(es) identified in the application materials, and shall identify the following:

- 1. The land or matter subject to the application;
- 2. A reference to any approved plans, as appropriate;
- 3. The approved use(s), if any; and
- 4. Any conditions of approval or other applicable requirements.

#### B. Timing

Except where otherwise stated in this Ordinance, the UDO Administrator shall provide the applicant written notification of a decision or action within 10 business days after a final decision on a development application.

#### C. Copy of Decision

In addition to providing notification of a decision on an application to an applicant, the UDO Administrator shall make a copy of the decision available to the public in the offices of the Planning Department during normal business hours.

### 2.2.12 EFFECT<sup>38</sup>

#### A. Effect

Approval of a development application in accordance with this Ordinance authorizes only the particular use, plan for development, or other specific activity approved.

#### B. Permit Prerequisite

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

#### C. Transfer

- 1. Except when otherwise specified, development approvals may be transferred from one owner to another, provided the land, structure, or use type continues to be used for the same purpose for which the approval was granted.
- 2. The terms and requirements of the approval shall continue to apply to all subsequent owners or interests.

<sup>37</sup> This section builds on the standards in Section 151.495.C of the current ordinance.

<sup>38</sup> This section builds on the standards in Section 151.514 of the current ordinance.

## ARTICLE 151.2 PROCEDURES

### Section 2.2 Standard Review Procedures<sup>20F</sup>

#### 2.2.13 Continuance<sup>38F</sup>

### 2.2.13 CONTINUANCE<sup>39</sup>

An applicant may request that a review authority's consideration of an application at public meeting or hearing be continued by submitting a written request to the UDO Administrator.

#### A. UDO Administrator Action

If public notice has not been provided in accordance with this Ordinance prior to the request for a continuance, the UDO Administrator shall consider and decide the request. A request for continuance shall be approved only in cases where the applicant needs additional time to prepare evidence, secure approval from outside agencies, or bring the application into closer alignment with the adopted policy guidance or the requirements of this Ordinance.

#### B. Review Authority Action

1. If public notice has been provided in accordance with this Ordinance, the request for continuance shall be placed on the agenda of the review authority on the date the application is to be considered. The review authority may approve the request for good cause.
2. The applicant shall be responsible for any additional public notification expenses.

#### C. General Requirements

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

#### D. Continuance of Public Hearing

1. A review authority may continue a public hearing until a subsequent meeting and may keep the hearing open to receive additional information up to the point when a final decision is made.
2. No further notice of a continued hearing is not required unless a period of eight or more weeks lapse between hearing dates.

### 2.2.14 WITHDRAWAL

- A. An applicant may withdraw an application at any time.
- B. If an applicant withdraws an application for the same land after public notification two times within a single calendar year, the same application may not be resubmitted for a period of one year from the date of the second withdrawal.
- C. Application fees for withdrawn applications shall not be refunded.

### 2.2.15 LIMITATION ON SUBSEQUENT SIMILAR APPLICATIONS<sup>40</sup>

- A. If a development application requiring a public hearing is denied, no application proposing the same or similar development on all or part of the same land shall be submitted within one year after the date of denial unless the review authority approves a reduction in this time limit in accordance with subsection (B) below. For the purposes of this section, "the same or similar development" shall mean:
  1. The same use type(s) in the same approximate location(s) as the denied application; or
  2. The same use type(s) in the same approximate building configuration (e.g., building height, floor area, massing) as the denied application.
- B. The owner of land subject to this subsection, or the owner's authorized agent, may submit a written request for reduction of the time limit, along with a fee to defray the cost of processing the request, to the UDO Administrator, who shall transmit the request to the review authority. The review authority may grant the request only on a finding by two-thirds of its membership that the owner or agent has demonstrated that:
  1. There is a substantial change in circumstances relevant to the issues or facts considered during review of the prior application that might reasonably affect the review authority's application of the relevant review standards to the development proposed in the new application; or
  2. New or additional information is available that was not available at the time of review of the prior application and that might reasonably affect the review authority's application of the relevant review standards to the development proposed in the new application; or
  3. The new application proposed to be submitted is materially different from the prior application; or
  4. The final decision on the prior application was based on a material mistake of fact.

### 2.2.16 AMENDMENT<sup>41</sup>

<sup>39</sup> This is a new section for the County's consideration.

<sup>40</sup> NOTE: This section replaces Section 151.516 in the current ordinance. The current standards prohibit rehearing of a denied special use or variance unless there are changed conditions. These proposed standards allow an applicant to resubmit another application after a year, and create a set of conditions that would allow a reduction of the one-year waiting period for a new application.

<sup>41</sup> NOTE: This section replaces Section 151.515 of the current ordinance, but requires major changes to be treated the same as a new application.



## ARTICLE 151.2 PROCEDURES

### Section 2.2 Standard Review Procedures<sup>20F</sup>

#### 2.2.17 Expiration<sup>41F</sup>

Unless expressly prohibited in the approval, subsequent plans and permits for development may include minor changes (including changes from approved conditions), provided the development continues to meet the minimum requirements of this Ordinance and the following:

#### A. Minor Changes

1. Minor changes are limited to changes that:
  - a. Have no discernible impact on neighboring properties, the general public, or those intended to occupy or use the proposed development;
  - b. Will result in equal or better compliance with this Ordinance or conditions of approval; or
  - c. Address technical considerations that could not reasonably be anticipated at the time of the approval.
2. The following minor changes may be approved by the UDO Administrator:
  - a. Changes to the location of entrances or driveways, minor rearrangement of internal streets, turn lanes, drives, or access restrictions;
  - b. Increases in or changes to the configuration of parking areas;
  - c. Increases in or changes to the configuration or location of open space or placement of required amenities;
  - d. Changes to the arrangement or location of buildings, provided there is no increase in number;
  - e. Changes to the proposed building elevation or façade, including materials, provided that the change retains the same general architectural character and same building height;
  - f. Changes to the configuration of landscape yards, including types of materials, provided the screening function is maintained;
  - g. Decreases in residential density or non-residential gross floor area; and
  - h. Minor changes to lot line locations, provided there is no increase in the total number of lots and provided all lots comply with the dimensional requirements for the zoning district where located.

#### B. Material Changes are Amendments

Changes that materially affect the basic configuration of the development or are beyond the scope of a minor change listed in subsection A above are not considered minor changes, and shall be reviewed and considered in accordance with the procedures and standards established for the original approval.

### 2.2.17 EXPIRATION<sup>42</sup>

- A. Development approvals granted in accordance with this Ordinance shall expire as provided in **Section <>, Specific Review Procedures**, for the particular type of development permit or approval.
- B. If no expiration period is provided in **Section <>, Specific Review Procedures**, then the development approval does not expire.
- C. A change in ownership of the land shall not affect the established expiration time period. The filing of an appeal shall delay the established expiration period until final resolution of the appeal.

<sup>42</sup> This is a new section for the County's consideration.



## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.1 Purpose and Intent

## 2.3 SPECIFIC REVIEW PROCEDURES

### 2.3.1 PURPOSE AND INTENT

This section sets out supplemental procedures, review criteria, and related information for each of the specific review procedures identified in [Table <>, Specific Development Review Procedures](#). The standards in this section apply in addition to the procedures set forth in [Section <>, Standard Review Procedures](#). In cases where the standards in this section conflict with the standards in [Section <>, Standard Review Procedures](#), the standards in this section shall control.

### 2.3.2 OVERVIEW

- A. Development application provisions in this section are organized in alphabetical order in accordance with the sequence of procedures in [Table <>, Specific Development Review Procedures](#).
- B. Each development application review procedure in this section includes a procedural flowchart that depicts the steps in the review process. White boxes indicate actions of the applicant. Purple boxes indicate actions of County staff. Black boxes show quasi-judicial public hearings, and grey boxes show public hearings or public meetings (as appropriate). Boxes with dashed lines show optional steps.

### 2.3.3 SPECIFIC REVIEW PROCEDURES SUMMARY TABLE<sup>43</sup>

The following table sets out the review authority and relevant procedural steps for each of type of development application under this Ordinance.

<sup>43</sup> The development review summary table provides code users with an overview of the available procedures, the body or individual responsible for making recommendations and decisions and hearing appeals (review authority), and the type of public hearing required, if any.

As mentioned on Page 43 of the Evaluation Report, the table contains seven new procedures: Administrative Adjustment, Certificate of Occupancy, Comprehensive Plan Amendment, Development Agreement, Exempt Subdivision, Temporary Use Permit, and Vested Rights Determination. An Administrative Adjustment is a new procedure which formalizes and standardizes the procedures in Section 151.018 of the current ordinance and allows for minor deviations from numerical standards, including setbacks, bulk standards, and parking counts. Certificates of Occupancy are discussed in the current UDO but do not have a codified procedure. The Comprehensive Plan Amendment is a new procedure that provides a codified way to update the Comprehensive Plan (Land Use Plan) ahead of a zoning text or map amendment as a means of helping ensure consistency between the plan and the UDO. The Development Agreement procedure creates a way for the County to make an agreement on development phasing, infrastructure provision, and development build-out with a developer. The Exempt Subdivision formalizes the process for the UDO Administrator to determine whether or not a division of land is exempted from subdivision standards. The Temporary Use Permit is a new procedure for land uses of a temporary nature that sets out the maximum duration and frequency of temporary uses. The Vested Rights Determination is mentioned in the current ordinance, but not codified as a procedure. The procedure set out in this draft requires an applicant to request this determination along with the application and requires a public hearing if one is not already required. In addition to these new procedures, Session Law 2017-10 from the General Assembly establishes a new class of subdivision called an "Expedited Subdivision" of no more than 3 lots on land under common ownership that is at least five acres in area. The expedited subdivision is subject to the same review procedure as a minor subdivision, but there are limitations on neighborhood meetings, in-lieu fees, and access requirements that are not applied to a minor subdivision. As a result, the expedited subdivision review procedure has been added to recognize these distinctions.

Pages 40 through 42 of the Evaluation Report suggest changes to four other current procedures. The Major Subdivision procedure has been altered to remove the special use permit requirement, allow the TRC to review the sketch plan (as a pre-application conference), allow applicants to submit a conceptual stormwater plan at the preliminary plat stage (but finalized prior to approval of a final plat), to delay the submission of state and federal permits until after preliminary plat approval, and to authorize the UDO Administrator to approve the final plat. The Planned Unit Development procedure has been revised to make planned development a more viable development option by removing the requirements for a conditional use permit, minimum district size, and use-mixing. New detail has been added to clarify that a planned development cannot alter some standards, including stormwater and design provisions. The Special Use Permit is a standalone procedure for consideration of particular uses, due to its quasi-judicial nature. The Site Plan procedure is divided into major and minor site plans, with major site plans decided by the Planning Board.

The Conditional Use Permit is deleted and replaced with new use-specific standards to address special use-related considerations. The Special Use Permit procedure is proposed to replace the Conditional Use Permit with respect to review of extraordinary uses.

**ARTICLE 151.2 PROCEDURES**

**Section 2.3 Specific Review Procedures**

2.3.3 Specific Review Procedures Summary Table42F

**TABLE <>: SPECIFIC DEVELOPMENT REVIEW PROCEDURES**

Pre-application Conference: "M" = Mandatory "O" = Optional "." = not applicable  
 Type of Action: "R"=Recommendation "D"=Decision "A"=Appeal  
 Table symbols: < >=Legislative Public Hearing / \ =Quasi-Judicial Hearing " " = not applicable [ ] = see Notes

REVIEW PROCEDURE	SECTION REFERENCE	PRE-APPLICATION	REVIEW AUTHORITIES				
			UDO ADMINISTRATOR	BUILDING INSPECTOR	PLANNING BOARD [1]	BOARD OF COMMISSIONERS	BOARD OF ADJUSTMENT
Administrative Adjustment	◇	M	D	.	.	.	/A\
Appeal	◇	O	.	.	.	.	/D\
Building Permit	◇	.	.	D	.	.	/A\
CAMA Minor Permit	◇	O	D	.	.	.	/A\
Certificate of Occupancy	◇	.	.	D	.	.	.
Comprehensive Plan Amendment	◇	O	.	.	R	<D>	.
Development Agreement	◇	M	.	.	R	<D>	.
Exempt Subdivision	◇	.	D	.	.	.	/A\
Expedited Subdivision	◇	.	D	.	.	.	/A\
Final Plat	◇	O	D	.	.	.	.
Floodplain Development Permit	◇	.	.	D	.	.	/A\
Interpretation	◇	O	D	.	.	.	/A\
Major Site Plan	◇	M	.	.	<D>	.	.
Minor Site Plan	◇	O	D	.	.	.	/A\
Minor Subdivision	◇	O	D	.	.	.	.
Planned Development	◇	M	.	.	R	<D>	.
Preliminary Plat	◇	M	[2]-	.	R	<D>	.
Sign Permit	◇	O	D	.	.	.	/A\
Special Use Permit	◇	M	.	.	.	/D\	.
Transfer Plat	◇	.	D	.	.	.	/A\
Temporary Use Permit	◇	O	D	.	.	.	/A\
UDO Text Amendment	◇	M	.	.	R	<D>	.
Variance	◇	M	.	.	.	.	/D\
Vested Rights Determination	◇	M	.	.	.	<D>	.
Zoning Compliance Permit	◇	O	D	.	.	.	/A\
Zoning Map Amendment	◇	M	.	.	R	<D>	.

**NOTES:**

[1] Applications subject to a recommendation by the Planning Board shall be heard by the Planning Board during a public meeting, but public meetings are not subject to public notification requirements in [Section <>, Public Notice](#).

[2] [The TRC shall review applications for preliminary plats prior to consideration by the Planning Board.](#)

## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.4 Administrative Adjustment<sup>43F</sup>

### 2.3.4 ADMINISTRATIVE ADJUSTMENT<sup>44</sup>

#### A. Purpose and Intent

The purpose for the administrative adjustment procedure is to establish a clear procedure and measurable review criteria for the administrative consideration of requests for minor deviations to certain numeric standards in this Ordinance (like district dimensional standards). The intent of the procedure is to provide relief where application of a standard creates practical difficulties in allowing development that otherwise advances the purposes served by this Ordinance, only in cases where the adjustment does not interfere with a proposed development's compatibility with its surroundings.

#### B. Applicability

1. Except where otherwise prohibited, an administrative adjustment may be requested for a modification or deviation of up to 10 percent to any district dimensional standard in Article 151.3: Zoning Districts, a numeric standard in Article 151.4, Use Regulations, or any numeric standard in Article 151.5: Development Standards.
2. In no instance shall an administrative adjustment application seek to reduce the required minimum lot area or maximum residential density on a lot.

#### C. Timing

1. An administrative adjustment may be requested either as a stand-alone application, or in combination with another application for development review.
2. In cases when submitted with another application, the administrative adjustment portion of the application shall be reviewed and decided prior to the other portion(s) of the application.

#### D. Administrative Adjustment Procedure

1. **Pre-Application Conference**  
Mandatory (see [Section <>, Pre-Application Conference](#)).
2. **Application Submittal**  
Applicable (see [Section <>, Application Submittal](#)).
3. **Staff Review and Action**  
Applicable (see [Section <>, Staff Review and Action](#)).

#### E. Administrative Adjustment Review Standards

An administrative adjustment shall be approved if the applicant demonstrates all of the following:

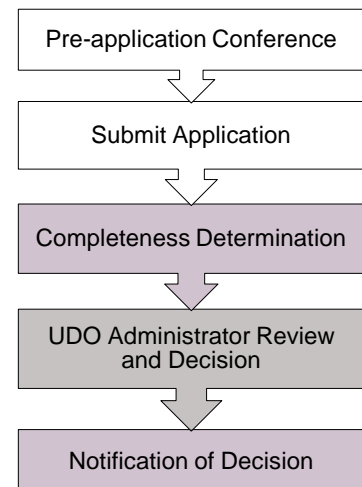
1. The administrative adjustment:
  - a. Is required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general; or
  - b. Supports an objective or goal from the purpose and intent statements of the zoning district where it is located; or
  - c. Is necessary to allow for proper functioning of on-site wastewater or stormwater management devices; or
  - d. Saves healthy existing trees;
2. The administrative adjustment does not exceed the maximum allowable threshold;
3. The administrative adjustment is consistent with the character of development on surrounding land, and is compatible with surrounding land uses;
4. The administrative adjustment will not pose a danger to the public health or safety;
5. The administrative adjustment will not negatively impact the function or performance of on-site wastewater or stormwater management devices;
6. Adverse impacts resulting from the administrative adjustment will be fully mitigated; and
7. The development standard being adjusted is not the subject of a previously approved administrative adjustment on the same site.

#### F. Conditions of Approval

Applicable (see [Section <>, Conditions of Approval](#)).

#### G. Effect

**FIGURE <>  
ADMINISTRATIVE  
ADJUSTMENT  
PROCEDURE**



<sup>44</sup> This is a new procedure described on Page 43 of the Evaluation Report. It is intended to replace provisions like those in Section 151.018 that allows the UDO Administrator to deviate from any numeric standard by up to 5 percent. This draft procedure increases the maximum allowable deviation up to 10 percent but establishes review standards.

## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.4 Administrative Adjustment43F

Approval of an administrative adjustment application allows consideration of any concurrent and related applications.

**H. Amendment**

Applicable (See [Section <>, Amendment](#)).

**I. Expiration**

If an administrative adjustment is associated with another permit or development approval, the expiration of the administrative adjustment shall be the same as the permit or development approval with which it is associated. In all other cases, the administrative adjustment shall run with the land.

**J. Appeal**

Appeal of a decision on an administrative adjustment shall be reviewed and decided by the BOA in the nature of certiorari and in accordance with [Section <>, Appeal](#).

ARTICLE 151.2 PROCEDURES

Section 2.3 Specific Review Procedures

2.3.5 Appeal44F

2.3.5 APPEAL<sup>45</sup>

A. Purpose and Intent

This appeal procedure is proposed to establish a clear and predictable procedure for persons with standing to appeal a decision or interpretation of this Ordinance, the OZM, or a condition of approval by a review authority.

B. Applicability

- 1. Unless otherwise provided by State law or this Ordinance, this section sets out the procedure and standards for appealing any decision or interpretation by a County official made pursuant to this Ordinance.
- 2. Appeals of decisions made by the Planning Board, BOC, or BOA shall be to the Superior Court for Camden County, in accordance with State law.
- 3. In the event an applicant wishes to appeal a standard outside this Ordinance, or a decision by a staff member not addressed by this Ordinance, the appeal shall be made to the County Manager in accordance with County policy, not this appeal procedure.

C. Initiation

An appeal shall be initiated by filing a written notice of appeal with the UDO Administrator within 10 days of the date the written determination or decision being appealed is received by the applicant (except where otherwise specified in this Ordinance).

D. Appeal Procedure

1. Pre-Application Conference

Optional (see Section <>, Pre-Application Conference).

2. Application Submittal

- a. Applicable (see Section <>, Application Submittal).
- b. The written notice of appeal shall include a statement of the error or improper decision, the date of the decision or interpretation, the grounds for the appeal, and all related support materials.

3. Staff Review and Action

- a. Applicable (see Section <>, Staff Review and Action).
- b. On accepting a notice of appeal, the UDO Administrator shall transmit to the BOA the record of material considered by the decision-maker in making the decision or interpretation as well as the application for the appeal.

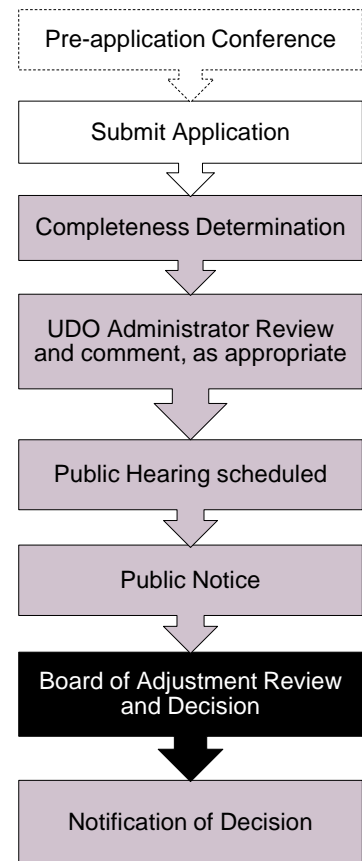
4. Public Notice

Applicable (see Section <>, Public Notice).

5. Review and Decision by the Board of Adjustment

- a. Applicable (see Section <>, Action by Review Authority, and Section <>, Public Meetings and Hearings).
- b. The BOA, at the conclusion of a quasi-judicial public hearing, shall decide the application for the appeal.
- c. The decision shall be based on the competent, material, and substantial evidence in the record of the appeal, as supplemented by arguments presented at the quasi-judicial hearing, and the standards in Section <>, Appeal Review Standards.
- d. The decision shall be one of the following:
  - 1. Affirmation of the decision or interpretation (in whole or in part);
  - 2. Modification of the decision or interpretation (in whole or in part); or
  - 3. Reversal of the decision or interpretation (in whole or in part).
- e. A vote to reverse or modify a decision or determination shall require approval of a majority of a quorum present at the hearing.
- f. Each decision shall be made in writing and reflect the BOA's determination of contested facts and their application to the standards in this Ordinance.
- g. The written decision shall be signed by the Chair or other duly authorized member of the BOA.
- h. The decision of the BOA shall be effective upon the filing of the written decision.

FIGURE <> APPEAL PROCEDURE



<sup>45</sup> This procedure carries forward the standards and requirements in Sections 151.530, 151.536, and 151.550 with the new standardized procedural layout.

## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.5 Appeal44F

#### 6. Notification of Decision

The decision of the BOA shall be delivered by personal service, electronic mail, or by first-class mail to the applicant, the landowner, and to any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person providing notification of decision shall certify that proper notification has been made.

#### E. Appeal Review Standards

1. The BOA is limited to the following determinations in considering the appeal, which shall be based on:
  - a. Whether the decision-maker erred in the interpretation of this Ordinance; and
  - b. Whether the decision-maker erred in determining whether a standard of this Ordinance was met.
2. The BOA shall not hear any evidence or make any decision based on hardships or special conditions except as part of an application for a variance.

#### F. Effect

1. An appeal stays all proceedings in furtherance of the action appealed, unless the County official from whom the appeal is taken certifies to the BOA, after notice of appeal has been filed, that because of facts stated in the certificate a stay would, in the County official's opinion, cause imminent peril to life or property or because the violation is one that frequently re-occurs on the same lot or on land owned by the same violator, a stay would seriously interfere with enforcement of this Ordinance.
2. If certification by a County official is filed, administrative proceedings shall not be stayed except through issuance of a restraining order by a court of competent jurisdiction.
3. If the appeal is not stayed, the appellant may file for an expedited hearing of the appeal, and the BOA shall meet to consider the appeal with 15 days of the date the request is filed.
4. The filing of an appeal prevents the filing of an application for a zoning map amendment, special use permit, zoning compliance permit, or building permit for the same land subject to an appeal application, as well as the filing of a text amendment application by the same party filing the appeal until the appeal application is decided or appealed to the courts.

#### G. Appeal

1. Appeal of a decision on an appeal by the BOA shall be subject to review by District 1 Superior Court by proceedings in the nature of certiorari and in accordance with Section 160A-393 of the North Carolina General Statutes.
2. Petitions for review must be filed with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

# ARTICLE 151.2 PROCEDURES

## Section 2.3 Specific Review Procedures

### 2.3.6 Building Permit<sup>45F</sup>

#### 2.3.6 BUILDING PERMIT<sup>46</sup>

##### A. Purpose and Intent

The purpose for the building permit procedure is to establish a consistent process for the review and approval of construction activities for consistency with all applicable building codes to give reasonable assurance that new development is safe from structural failure, fire hazards, electrical shock, or any other applicable health risks, as well as to establish a permanent record of work performed and inspections conducted.

##### B. Applicability

Unless exempted in accordance with this Ordinance or the State Building Code, no construction, reconstruction, addition, alteration, repair, movement to another site, removal, or demolition of any building or structure shall occur until a building permit is approved in accordance with the procedures and standards of this section.

##### C. Exemption<sup>47</sup>

The following forms of development are exempted from the requirement to obtain a building permit:

1. Storage and accessory buildings of 144 square feet in area, or less, and not used for habitable space;
2. Fences;
3. Privacy walls; or
4. Home occupations.

##### D. Building Permit Procedure

###### 1. Application Submittal

Applicable (see Section <>, Application Submittal).

###### 2. Staff Review and Action

Applicable (see Section <>, Staff Review and Action).

##### E. Building Permit Review Standards

A building permit shall be issued if the application complies with:

1. The State Building Code;
2. The standards in Section 153A-357 (including subsections (e) and (f), as applicable) of the North Carolina General Statutes;
3. The applicable requirements of Albemarle Regional Health Services, including all improvement permit requirements;
4. The requirement that the lot is already served by a NCDOT-maintained roadway or a right-of-way constructed to and maintained in accordance with NCDOT standards;
5. All standards or conditions of any prior, applicable permits and development approvals; and
6. All other applicable requirements of this Ordinance, the County Code of Ordinances, State law, and federal law.

##### F. Delay of Approval Authorized

The Board of Commissioners may delay approval of a building permit at on land where timber is harvested in advance of an application for either of the following time periods:

1. Up to three years after completion of timber harvesting, if the harvest results in the removal of all, or substantially all, of the trees that would be protected by Section <>, Tree Protection; or
2. Up to five years after completion of timber harvesting, if the harvest results in the removal of all, or substantially all, of the trees that would be protected by Section <>, Tree Protection, if the harvest was conducted as a willful violation of these standards.

##### G. Effect

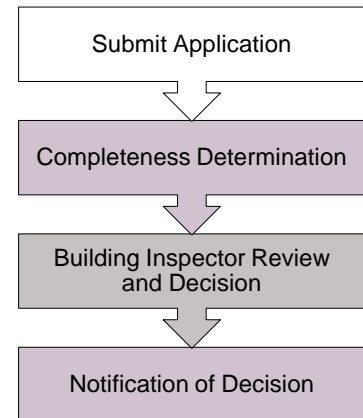
Applicable (see Section <>, Effect).

##### H. Amendment

Applicable (see Section <>, Amendment).

##### I. Expiration

**FIGURE <>  
BUILDING PERMIT  
PROCEDURE**



<sup>46</sup> This section sets out the permit for a building permit and incorporates the standards in Section 151.432 of the current ordinance. While mentioned several times in the current ordinance, the building permit process is not codified. This section is proposed for the County's consideration.

<sup>47</sup> NOTE TO STAFF: Are there other forms of development exempted from building permits? Fences? Privacy walls? Driveways? Above-ground water tanks? Playground equipment? Attached awnings? Pre-fabricated above-ground swimming pools? Septic work subject to an improvement permit? Others? Also, in cases where there is development that is exempted from building permit review, is a zoning compliance certificate required?



## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.6 Building Permit45F

1. A building permit shall expire and become null and void if the development it authorizes is not commenced within six months of the permit issuance.
2. If development authorized by a building permit commences but fails to achieve at least one passing inspection (foundation, footing, framing, mechanical, etc.) for a continuous period of 12 months, the permit shall expire and become null and void.
3. In cases where the development has obtained a vested right in accordance with **Section <>, Vested Rights Determination**, the building permit shall only expire in accordance with the vested rights determination.

#### J. **Appeal**

An appeal of a decision on a building permit may be filed with the North Carolina Commissioner of Insurance, in accordance with Sections 153A-374 or 160A-434 of the North Carolina General Statutes.

# ARTICLE 151.2 PROCEDURES

## Section 2.3 Specific Review Procedures

### 2.3.7 CAMA MinorFill Permit47F

#### **2.3.7 CAMA MINORFILL PERMIT<sup>48</sup>**

(J) A fill permit issued by the North Carolina Division of Water Quality shall be required to fill any 401 wetlands.

2.3.7 (K) A fill permit issued by the U.S. Army Corps of Engineers shall be required to fill any 404 wetlands.

#### **A. Purpose and Intent**

The CAMA minor permit procedure sets out the procedure and standards for County review of minor forms of development proposed in an Area of Environmental Concern (AEC) – areas in or near the water, near a water supply, beach dunes, marshes, or other areas of environmental significance identified in the Coastal Area Management Act (CAMA) of 1974.

#### **B. Applicability**

1. CAMA minor permits are required for development proposed in affected areas that occupy less than 20 acres and less than 60,000 square feet of structure. Single-family homes, docks, shoreline armoring, and similar forms of development are the most common type of development required to obtain a CAMA minor permit.
2. Development exceeding the thresholds of a CAMA minor permit is reviewed as a CAMA general or major permit by the North Carolina Coastal Resources Commission (CRC), not the County.

#### **C. CAMA Minor Permit Procedure**

##### **1. Pre-Application Conference**

Optional (see Section <>, Pre-Application Conference).

##### **2. Application Submittal**

- a. Applicable (see Section <>, Application Submittal).
- b. Applications shall be filed on a form provided by the CRC.

##### **3. Adjacent Owner Notification**

Applicants for a CAMA minor permit shall notify all adjacent landowners who own riparian (or waterfront) property that an application for a CAMA minor permit has been filed.

##### **4. Staff Review and Action**

- a. Applicable (see Section <>, Staff Review and Action).
- b. Upon receipt of an application, the UDO Administrator shall forward a copy to the NC Department of Environmental Quality (NCDEQ).
- c. The UDO Administrator shall decide an application within 25 days of the date it is deemed complete. The UDO Administrator may request, and shall be granted one additional 25-day period to make a decision when the complexity of the application requires such evaluation. The applicant shall be notified via certified mail in cases where an extension is required.
- d. Failure of the UDO Administrator to make a decision within the time allotted shall be deemed an approval.
- e. The UDO Administrator shall review and decide the application in accordance with Section <>, CAMA Minor Permit Review Standards.

#### **D. CAMA Minor Permit Review Standards**

A CAMA minor permit shall be issued if the application complies with:

1. All applicable standards for development in an AEC found in the North Carolina Administrative Code (Sections 15A NCAC 7H .0208-310 or .0405-6);
2. Sections 113A-120(a)(1-10) of the North Carolina General Statutes;
3. Applicable adopted policy guidance; and
4. Any applicable local development regulations.

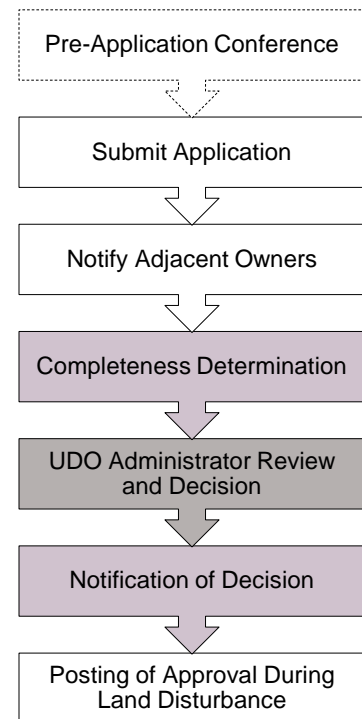
#### **E. Conditions of Approval**

Applicable (see Section <>, Conditions of Approval).

#### **F. Effect**

1. Applicable (see Section <>, Effect).

**FIGURE <> CAMA MINOR PERMIT PROCEDURE**



<sup>48</sup> NOTE TO STAFF: This is a suggested review procedure. Page 37 of the Evaluation Report suggested calling this a “fill permit” though this is a somewhat misleading term. Additional discussion is needed regarding the County’s desire for a land disturbance or grading permit for areas outside an AEC.

## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.7 CAMA MinorFill Permit47F

2. The applicant shall post the approved permit in a prominent location on the site where the land disturbance is occurring at all times while it is in effect.

**G. Amendment**

Amendment of a land disturbance permit may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

**H. Expiration**

The land disturbance permit shall be null and void if work authorized is not completed within one year from the issuance of the permit.

**I. Appeal**

Appeal of a decision on an CAMA minor permit shall be reviewed and decided by the BOA in the nature of certiorari and in accordance with [Section <>, Appeal](#).

# ARTICLE 151.2 PROCEDURES

## Section 2.3 Specific Review Procedures

### 2.3.8 Certificate of Occupancy<sup>48F</sup>

#### 2.3.8 CERTIFICATE OF OCCUPANCY<sup>49</sup>

**A. Purpose and Intent**

The purpose for the certificate of occupancy procedure is to establish a consistent and standardized method to document a development's compliance (or pending compliance) with all applicable building codes and County requirements prior to occupancy or initiation.

**B. Applicability**

No land, newly erected building or structure, or existing building or structure that has been moved or enlarged or changed in use shall be occupied or used until a certificate of occupancy is issued in accordance with this section, certifying that the land, building, or structure, and its use complies with this Ordinance and the applicable standards of the State Building Code.

**C. Certificate of Occupancy Procedure**

**1. Application Submittal**

Applicable (see Section <>, Application Submittal).

**2. Staff Review and Action**

Applicable (see Section <>, Staff Review and Action).

**D. Certificate of Occupancy Review Standards**

A certificate of occupancy shall be approved if the land, building, structure, or proposed use complies with:

1. All relevant standards of this Ordinance;
2. Any other applicable County requirements;
3. All applicable conditions of approval;
4. All applicable State Building Code requirements; and
5. All other applicable State and federal requirements.

**E. Effect**

Approval of a certificate of occupancy allows a building, structure, or site to be occupied or used in accordance with the approved purpose.

**F. Performance Guarantee**

The Building Inspector may require the applicant to submit a performance guarantee (see Section <>, Performance Guarantees) in an amount necessary to ensure that any work not completed as specified in the development permit or approval will be completed within the specified timeframe for a certificate of occupancy.

**G. Temporary Certificate of Occupancy<sup>50</sup>**

1. In cases where it would be unreasonable to require the applicant to comply with all the requirements of this procedure prior to commencement of the proposed use, transfer of lots in a subdivision, or occupancy of any buildings (due to weather conditions or other issues beyond the applicant's control, but not including financial hardship), the Building Inspector may issue a temporary certificate of occupancy, provided:
  - a. The commencement or occupancy will not violate any health or safety considerations of any applicable codes;
  - b. A performance guarantee, submitted in accordance with Section <>, Performance Guarantees, is provided for any centralized water or sewer utility or other required infrastructure; and
  - c. The duration of the temporary certificate of occupancy shall not exceed six months.
2. If all remaining work is not completed within the specified timeframe of the temporary certificate of occupancy, the Building Inspector shall order the applicant to cease occupancy immediately.

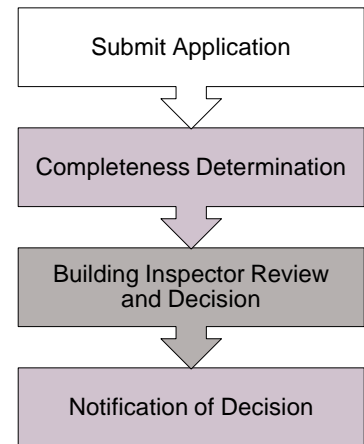
**H. Amendment**

Applicable (see Section <>, Amendment).

**I. Appeal**

An appeal pertaining to a State Building Code issue shall be filed with to the North Carolina Commissioner of Insurance in accordance with Sections 153A-374 or 160A-434 of the North Carolina General Statutes.

**FIGURE <>  
CERTIFICATE OF  
OCCUPANCY PROCEDURE**



<sup>49</sup> As with the building permit procedure, the certificate of occupancy is mentioned several times in the current ordinance but the process is not codified, as mentioned on Page 43 of the Evaluation Report. This section is proposed for the County's consideration, and incorporates the temporary certificate provisions.

<sup>50</sup> This section is proposed to replace the temporary certificate of occupancy provisions in Sections 151.502 and 151.510 of the current ordinance.

# ARTICLE 151.2 PROCEDURES

## Section 2.3 Specific Review Procedures

### 2.3.9 Comprehensive Plan Amendment<sup>50F</sup>

#### 2.3.9 COMPREHENSIVE PLAN AMENDMENT<sup>51</sup>

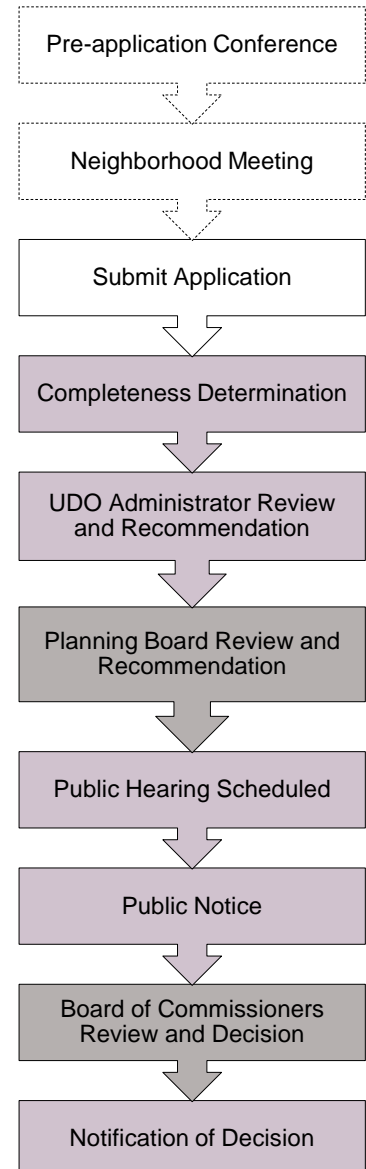
##### A. Purpose and Intent

The purpose of the comprehensive plan amendment procedure is to provide a uniform means for amending the 2035 Comprehensive Plan (or its successor) whenever the public necessity, changed conditions, convenience, general welfare, or appropriate land use practices justify or require doing so. In many cases, amendments to the Comprehensive Plan are required to accommodate a proposed change to the OZM or text of this Ordinance.

##### B. Comprehensive Plan Amendment Procedure

1. **Pre-Application Conference**  
Optional (see Section <>, Pre-Application Conference).
2. **Neighborhood Meeting**  
Optional (see Section <>, Neighborhood Meeting).
3. **Application Submittal**
  - a. Applicable (see Section <>, Application Submittal).
  - b. Applications may be initiated by the Board of Commissioners, the Planning Board, the UDO Administrator, or any person who may submit applications in accordance with Section <>, Authority to File Applications.
4. **Staff Review**
  - a. Applicable (see Section <>, Staff Review and Action).
  - b. The UDO Administrator shall review the application, prepare a staff report, and provide a recommendation in accordance with Section <>, Comprehensive Plan Amendment Review Standards.
5. **Review by Planning Board**
  - a. Applicable (see Section <>, Review by Planning Board, and Section <>, Public Meetings and Hearings).
  - b. The Planning Board, following review during a public meeting, shall make a recommendation on an application in accordance with Section <>, Comprehensive Plan Amendment Review Standards.
6. **Public Notice**  
Applicable (see Section <>, Public Notice).
7. **Review and Decision by Board of Commissioners**
  - a. Applicable (see Section <>, Action by Review Authority, and Section <>, Public Meetings and Hearings).
  - b. The Board of Commissioners, after the conclusion of a legislative public hearing, shall decide the application in accordance with Section <>, Comprehensive Plan Amendment Review Standards. The decision shall be the one of the following:
    1. Adoption of the comprehensive plan amendment as proposed;
    2. Adoption of a revised comprehensive plan amendment;
    3. Denial of the comprehensive plan amendment; or
    4. Remand of the comprehensive plan amendment application to the Planning Board for further consideration.

**FIGURE <>  
COMPREHENSIVE PLAN  
AMENDMENT PROCEDURE**



##### C. Comprehensive Plan Amendment Review Standards

Amending the comprehensive plan is a matter committed to the legislative discretion of the Board of Commissioners and is not controlled by any one

<sup>51</sup> NOTE TO STAFF: This is a new procedure identified on Page 43 of the Evaluation Report, and is proposed for the County's consideration. Additional discussion is necessary in light of impending state law revisions that allow a jurisdiction to automatically amend its comprehensive plan as part of an amendment to the official zoning map.

## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.9 Comprehensive Plan Amendment50F

factor. In determining whether to adopt or deny a proposed comprehensive plan amendment, the Board of Commissioners may consider whether and the extent to which the proposed comprehensive plan amendment is appropriate and is consistent with the County's adopted policy guidance.

**D. Amendment**

Amendment of a comprehensive plan amendment may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

**E. Appeal**

1. Appeal of a decision on a comprehensive plan amendment shall be subject to review by District 1 Superior Court.
2. Petitions for review must be filed with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

# ARTICLE 151.2 PROCEDURES

## Section 2.3 Specific Review Procedures

### 2.3.10 Development Agreements<sup>51F</sup>

#### 2.3.10 DEVELOPMENT AGREEMENTS<sup>52</sup>

##### A. Purpose and Intent

The purpose for the development agreement procedure is to establish a flexible process for the establishment and review of large-scale development projects likely to build out over several years. This procedure is intended to:

1. Provide more regulatory certainty;
2. Establish a schedule for development;
3. Coordinate the provision of public facilities; and
4. Improve management of environmentally sensitive lands.

##### B. Applicability

The Board of Commissioners may enter into a development agreement with a developer for a development of any size and for any duration, provided the duration is specified in the agreement. All development agreements shall be subject to Sections 153A-349.1 through 153A-349.13 and 160A-400 of the North Carolina General Statutes, and the provisions of this section.

##### C. Development Agreement Procedure

###### 1. Pre-Application Conference

Applicable (see Section <>, Pre-Application Conference).

###### 2. Application Submittal

Applicable (see Section <>, Application Submittal).

###### 3. Staff Review

- a. Applicable (see Section <>, Staff Review and Action).
- b. The UDO Administrator shall review the application and prepare a staff report, but shall not submit a recommendation.

###### 4. Review by Planning Board

- a. Applicable (see Section <>, Review by Planning Board, and Section <>, Public Meetings and Hearings).
- b. The Planning Board, following review during a public meeting, shall make a recommendation on an application in accordance with Section <>, Development Agreement Review Standards.

###### 5. Public Notice

Applicable (see Section <>, Public Notice).

###### 6. Review and Decision by Board of Commissioners

- a. Applicable (see Section <>, Action by Review Authority, and Section <>, Public Meetings and Hearings).
- b. The Board of Commissioners, after the conclusion of a legislative public hearing, shall review and decide the application in accordance with Section <>, Development Agreement Review Standards. The decision shall be the one of the following:
  1. Enter into the development agreement, as submitted;
  2. Enter into the development agreement, subject to changes agreed to in writing by the developer; or
  3. Not enter into the development agreement.
- c. Approval of a development agreement shall be by ordinance.

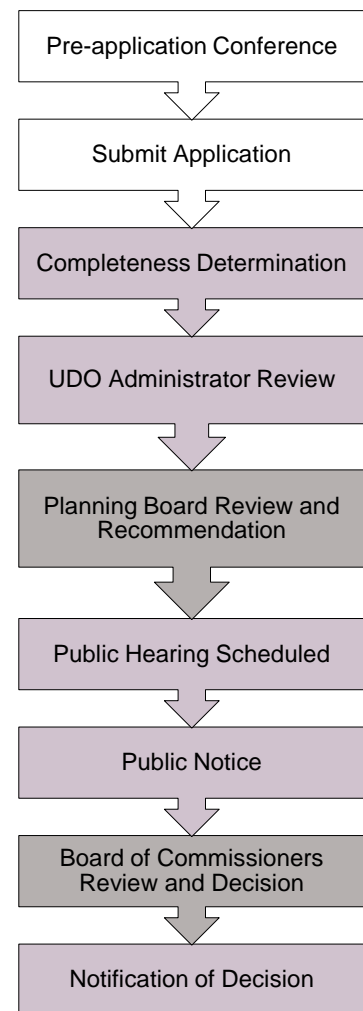
###### 7. Recordation

Within 14 days after entering into a development agreement, the applicant shall record the agreement in the office of the Camden County Register of Deeds.

##### D. Development Agreement Review Standards

For consideration of the County to participate in a development agreement, a development subject to the agreement must:

FIGURE <> DEVELOPMENT AGREEMENT PROCEDURE



<sup>52</sup> This is a new procedure used for complex or long-term development proposals where the applicant wishes to avoid the need to change the development to comply with rule changes proposed over the course of build-out. This procedure also allows the County to negotiate for additional features or a higher quality development outcome. This new procedure is discussed on Page 43 of the Evaluation Report.



## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.10 Development Agreements<sup>51F</sup>

1. Comply with the requirements in Section 153A-349.1 through 153A-349.13 of the North Carolina General Statutes;
2. Indicate the proposed phasing; and
3. Demonstrate the impact on existing and future provisions of capital improvements by the County, including at least one of the following: transportation, potable water, sanitary sewer, solid waste, stormwater management, educational, parks and recreation, and health systems and facilities.

#### E. Effect

##### 1. Burdens and Benefits

The burdens of the development agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

##### 2. Rights and Obligations

Rights and obligations established by a development agreement shall not preclude or supersede rights and obligations established pursuant to other law regarding building permits, site specific development plans, phased development plans, group developments, or other provisions of law.

##### 3. Building and Housing Code

A development agreement shall not exempt the property landowner or developer from compliance with the State Building Code or the County's Minimum Housing Code.

##### 4. Identify Subsequently Enacted Laws

Unless the development agreement specifically provides for the application of subsequently enacted laws, the laws applicable to development of the property subject to a development agreement are those in force at the time of execution of the agreement.

##### 5. Application of Subsequently Adopted Laws

Except for grounds specified in Section 153A-344.1(e) of the North Carolina General Statutes, the County may not apply subsequently adopted ordinances or development policies to a development that is subject to a development agreement.

##### 6. Change in State or Federal Law

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

##### 7. Vested Rights

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

#### F. Approval of Debt

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

#### G. Periodic Review and Breach of Agreement

##### 1. Annual Review

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

##### 2. Material Breach

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

##### 3. Failure to Cure Material Breach

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

#### H. Amendment

## ARTICLE 151.2 PROCEDURES

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### Section 2.3 Specific Review Procedures

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#### 2.3.10 Development Agreements51F

1. A development agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest.
2. Changes to a development agreement shall be reviewed and considered in accordance with the procedures and standards established for the original approval of a development agreement.

# ARTICLE 151.2 PROCEDURES

## Section 2.3 Specific Review Procedures

### 2.3.11 Exempt Subdivision<sup>52F</sup>

#### 2.3.11 EXEMPT SUBDIVISION<sup>53</sup>

##### A. Purpose and Intent

The purpose for this exempt subdivision procedure is to establish a clear and predictable procedure for the County to determine and document that a proposed division of land is exempted from the subdivision requirements of this Ordinance in accordance with Section 153A-335 of the North Carolina General Statutes.

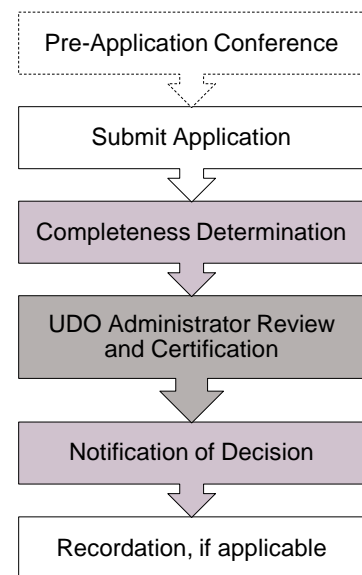
##### B. Applicability

1. The following forms of land division are exempt subdivisions exempted from the subdivision requirements of this Ordinance (but not from the provisions in this section):
  - a. A combination or recombination of portions of previously subdivided and recorded lots that does not increase the total number of lots, and the resultant lots are equal to or exceed the standards of this Ordinance;
  - b. The division of land into parcels greater than ten acres where no street right-of-way dedication is involved;
  - c. Public acquisition involving the purchase of strips of land for the widening or opening of streets;
  - d. Division of a tract of land in single ownership, where the total area of all land in the land division is no greater than two acres, the division creates no more than three lots, where no street right-of-way dedication is involved, and the resultant lots are equal to or exceed the standards of this Ordinance; or
  - e. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with Chapter 29 of the North Carolina General Statutes.
2. Divisions of land that are not consistent with these criteria shall not be considered exempt subdivisions, and shall be subject to the applicable review procedure and subdivision requirements of this Ordinance.

##### C. Subdivision Exemption Review Procedure

1. **Pre-Application Conference**  
Optional (see **Section <>, Pre-Application Conference**).
2. **Application Submittal**
  - a. Applicable (see **Section <>, Application Submittal**).
  - b. An application for exempt subdivision determination may be filed by the UDO Administrator, the Planning Board, the BOC, a landowner, or a contract purchaser.
  - c. Except for subdivisions where all lots shall be served by a central wastewater system, applications for an subdivision exemption shall include an evaluation from Albemarle Regional Health Services indicating that an on-site wastewater system may be used on each lot included in the subdivision.
3. **Staff Review and Action**
  - a. Applicable (see **Section <>, Staff Review and Action**).
  - b. The UDO Administrator shall review the application in accordance with **Section <>, Exempt Subdivision Review Standards**, and certify that the land division qualifies as an exempt subdivision.
4. **Recordation**  
If an exempt subdivision plat or other document is prepared by the applicant, it shall be certified by the UDO Administrator, and may be recorded in the office of the Camden County Register of Deeds.

**FIGURE <> EXEMPT SUBDIVISION PROCEDURE**



##### D. Exempt Subdivision Review Standards

A division of land shall be certified as an exempt subdivision if it:

1. Is excluded from the definition of a subdivision in accordance with Section 153A-335 of the North Carolina General Statutes; and
2. Complies with all applicable standards in Article 151.3: Zoning Districts; and
3. Complies with all standards or conditions of any applicable permits and development approvals; and

<sup>53</sup> This is a new procedure described on Page 40 of the Evaluation Report. It is a process used by the County to determine if a proposed division of land is or is not subject to the subdivision requirements. The application may be initiated by a landowner or by County staff in response another development application or as part of ordinance enforcement. These standards are consistent with Session Law 2017-10 related to exempted subdivisions.

## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.11 Exempt Subdivision52F

4. Complies with all other applicable requirements in the County Code of Ordinances.

#### E. Effect

1. A division of land determined to be an exempt subdivision shall be exempted from the subdivision standards of this Ordinance, but development of land within an exempt subdivision shall remain subject to the requirements for an improvement permit from Albemarle Regional Health Services, as well as all applicable standards in this Ordinance.
2. In the event a division of land does not qualify as an exempt subdivision, it shall be reviewed in accordance with the applicable subdivision procedure and shall be subject to all applicable subdivision standards in this Ordinance.
3. Divisions of land determined to be exempt subdivisions shall not be further divided into more than one additional lot (plus the residual parcel) within five years from the date of the exempt subdivision determination.

#### F. Appeal

Appeal of a decision on an exempt subdivision shall be reviewed and decided by the BOA in the nature of certiorari and in accordance with **Section <>, Appeal.**

# ARTICLE 151.2 PROCEDURES

## Section 2.3 Specific Review Procedures

### 2.3.12 Expedited Subdivision<sup>54</sup>

#### 2.3.12 EXPEDITED SUBDIVISION<sup>54</sup>

##### A. Purpose and Intent

The purpose for this expedited subdivision review procedure is to allow certain land divisions to be reviewed via an expedited review procedure based on their small size and limited likelihood to create significant impacts on surrounding lands.

##### B. Applicability

1. The standards in this section shall apply to divisions of land meeting all the following criteria:
  - a. The proposed division of land is not exempted from the subdivision standards of this Ordinance in accordance with **Section <>, Exempt Subdivision**;
  - b. The proposed division will not result in more than three lots (including any residual or "parent" parcel);
  - c. The area of land subject to the division includes at least five acres under common ownership;
  - d. No land included in an expedited subdivision application shall have been the subject of an expedited subdivision application approval within the preceding ten years; and
  - e. No extension of public streets, public water, public sewer, or other public utility is proposed.<sup>55</sup>
2. Divisions of land not meeting all these standards shall be reviewed as minor subdivisions, preliminary plats, or transfer plats, as appropriate.

##### C. Expedited Subdivision Procedure

###### 1. Application Submittal

- a. Applicable (see **Section <>, Application Submittal**).
- b. Applications shall be prepared by a registered land surveyor or professional engineer licensed to practice in North Carolina.
- c. Except for subdivisions where all lots shall be served by a central wastewater system, applications for an expedited subdivision shall include an evaluation from Albemarle Regional Health Services indicating that an on-site wastewater system may be used on each lot included in the subdivision.

###### 2. Staff Review and Action

- a. Applicable (see **Section <>, Staff Review and Action**).
- b. The UDO Administrator shall review and decide the application in accordance with **Section <>, Expedited Subdivision Review Standards**.

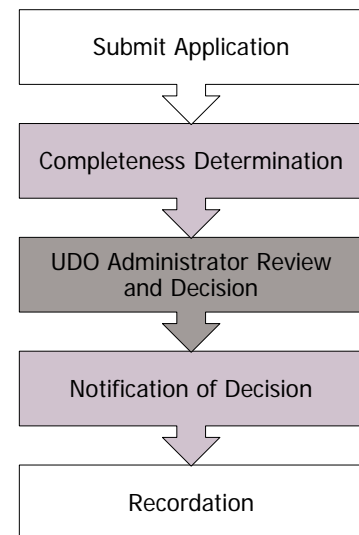
###### 3. Recordation

Once an expedited subdivision is approved, a signed statement of approval shall be entered on the face of the plat by the UDO Administrator. The expedited subdivision plat may not be recorded without this certification. Failure to record the expedited subdivision plat in accordance with **Section <>, Expiration**, shall render the expedited subdivision plat null and void.

###### 4. Expedited Subdivision Review Standards

- a. An expedited subdivision shall be approved if the application complies with the following:

**FIGURE <> EXPEDITED SUBDIVISION PROCEDURE**



<sup>54</sup> This is a new type of subdivision procedure required by Session Law 2017-10 from the General Assembly. It allows certain types of minor subdivisions to be reviewed as minor subdivisions and be exempted from in-lieu fee requirements, and similar subdivision standards. In some ways, this type of subdivision is similar to the current private access subdivision in Sections 151.275 through 151.278 of the current ordinance. However, it specifies a minimum tract size before subdivision of at least five acres, and it caps the total number of lots to be created to a maximum of three. It also imposes a minimum ten-year period between an initial expedited subdivision and any subsequent applications for an expedited subdivision involving the same land. It does not permit the establishment of one additional lot through approval of a zoning permit, and it does not limit the number of lots which may gain access by a single right-of-way to five, as is done by the current private access subdivision standards. Page 40 of the Evaluation Report suggests that the current private access subdivision standards be consolidated with the other minor subdivision standards for the sake of efficiency and clarity. Given the distinctions between the expedited subdivision specified in the session laws and the proposed minor subdivision procedure (as modified by inclusion of the private access subdivision provisions), we suggest the new UDO treat these two types of subdivisions differently.

<sup>55</sup> NOTE TO STAFF: Session Law 2017-10 is silent on whether or not subdivisions proposing extension of public utilities may or may not be treated as expedited subdivisions. Given the language in the bill regarding access to lots, we believe expedited subdivisions do not include infrastructure extension, but this issue remains murky.

## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.12 Expedited Subdivision53F

1. The expedited subdivision plat is on a sheet or sheets suitable for recording with the Camden County Register of Deeds;
  2. The expedited subdivision plat is prepared and sealed by a licensed professional land surveyor or licensed professional engineer;
  3. The expedited subdivision plat complies with all applicable standards in this Ordinance and Section 47-30 of the North Carolina General Statutes;
  4. The expedited subdivision plat includes all required certifications;
  5. The applicant has secured all required State and federal permit approvals;
  6. All lots have been certified by Albemarle Regional Health Services as capable of accommodating the wastewater generated from the proposed use, in cases when the lot(s) is not served by a centralized wastewater system;
  7. All lots in the expedited subdivision comply with the applicable dimensional requirements for the zoning district where located;
  8. The lot is served by a NCDOT-maintained roadway or a right-of-way constructed to and maintained in accordance with NCDOT standards; and
  9. No land included in an expedited subdivision application shall have been the subject of an expedited subdivision application approval within the preceding ten years.
- b. Expedited subdivisions of land located within the special flood hazard area shall comply with the standards in [Section <>, Special Flood Hazard Area Overlay Floodplain Management](#), and any recorded plats shall include the following statement:  
*"Use of land within a floodplain or a special flood hazard area is substantially restricted by Camden County."*

#### D. Effect

1. Building permits may be issued following recordation of the expedited subdivision plat.
2. Land subject to an expedited subdivision approval shall not be further subdivided as an expedited subdivision within ten years of the date of the prior expedited subdivision approval.

#### E. Amendment

Amendment of an expedited subdivision approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

#### F. Expiration

1. Applicable (see [Section <>, Expiration](#)).
2. An expedited subdivision plat shall be null and void unless it is recorded in the office of the Camden County Register of Deeds within 30 days of approval.

#### G. Appeal

Appeal of a decision on an expedited subdivision shall be reviewed and decided by the BOA in the nature of certiorari and in accordance with [Section <>, Appeal](#).

# ARTICLE 151.2 PROCEDURES

## Section 2.3 Specific Review Procedures

2.3.13 Final Plat55F

### 2.3.13 FINAL PLAT<sup>56</sup>

#### A. Purpose and Intent

The purpose for this final plat procedure is to ensure proposed subdivisions of land have been completed in substantial conformity with a preliminary plat (as applicable) as well as the applicable regulations of this Ordinance prior to the conveyance of lots. These standards are intended to ensure preparation and recordation of a map (plat) of sufficient detail and data to readily determine and accurately reproduce the location, bearing, radius (as applicable) and length of each of the following elements of a subdivision:

1. Every street or private accessway;
2. Lot lines;
3. Easement boundaries;
4. Lands or resources dedicated or reserved for use by the general public;
5. Land or resources owned in common by residents of the subdivision; and
6. Unbuildable resource or conservation lands.

#### B. Applicability

A final plat, reviewed and approved in accordance with this section, shall be required for all major subdivisions reviewed under this Ordinance. A landowner shall not submit an application for final plat review until a preliminary plat is approved and all required improvements serving the subdivision are installed and inspected by the County, or the developer provides a performance guarantee for those required improvements in accordance with [Section <>, Performance Guarantees](#).

#### C. Final Plat Review Procedure

##### 1. Pre-Application Conference

Optional (see [Section <>, Pre-Application Conference](#)).

##### 2. Application Submittal

- a. Applicable (see [Section <>, Application Submittal](#)).
- b. Except for subdivisions where all lots shall be served by a central wastewater system, applications for an expedited subdivision shall include an evaluation from Albemarle Regional Health Services indicating that an on-site wastewater system may be used on each lot included in the subdivision.

##### 3. Staff Review and Action<sup>57</sup>

- a. Applicable (see [Section <>, Staff Review and Action](#)).
- b. The UDO Administrator shall review the application and may submit it to technical staff or to other outside agencies, as appropriate, for further technical review.
- c. Following receipt of comments from technical review, if conducted, the UDO Administrator shall decide the application in accordance with [Section <>, Final Plat Review Standards](#).

##### 4. Recordation

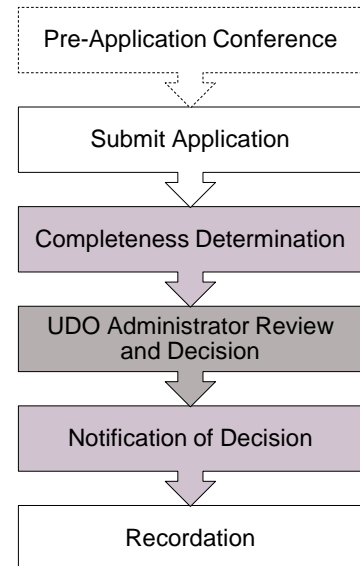
- a. Once a final plat is approved, a signed statement of the approval shall be entered on the face of the plat by the UDO Administrator. The final plat may not be recorded without this certification.
- b. A minor subdivision plat shall not be recorded until after the UDO Administrator receives conformation that the proposed subdivision has been approved by the appropriate United States Postmaster, or evidence that the applicant has addressed comments submitted by the Postmaster.
- c. Failure to record the final plat in accordance with [Section <>, Expiration](#), shall render the final plat null and void.

#### D. Final Plat Review Standards

A final plat shall be approved on a decision that the application complies with the following:

1. The final plat is on a sheet or sheets suitable for recording with the Camden County Register of Deeds;

FIGURE <> FINAL PLAT PROCEDURE



<sup>56</sup> This section replaces the final plat provisions in Sections 151.239, 151.240, and 151.240 of the current ordinance. As described on Page 40 of the Evaluation Report, the UDO Administrator has been authorized to review and decide final plats since this is a ministerial review – the proposed final plat either does or does not meet the minimum requirements, and there is no application of discretion during the review.

<sup>57</sup> NOTE TO STAFF: Section 151.240.D of the current ordinance describes conditional approval of a final plat. Does this take place today? Can permits be issued or lots be conveyed based on a conditionally approved plat?



## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.13 Final Plat55F

2. The final plat is prepared and sealed by a licensed professional land surveyor or licensed professional engineer;
3. The final plat complies with the standards in Section 47-30 of the North Carolina General Statutes;
4. The final plat includes all required certifications in [Section <>, Certifications](#);
5. All lots have been certified by Albemarle Regional Health Services as capable of accommodating the wastewater generated from the proposed use, in cases when the lot(s) is not served by a centralized wastewater system;
6. The applicant has secured all required State, federal, and other applicable County permit approvals;
7. The final plat is in substantial conformance with the preliminary plat (if associated with a major subdivision) and all applicable requirements in [Article 151.6: Subdivision Requirements](#), including all applicable stormwater management provisions;
8. All lots in the subdivision maintain minimum lot widths at the roadway or location of ingress and egress;
9. All lots are served by a NCDOT-maintained roadway or a right-of-way constructed to and maintained in accordance with NCDOT standards;
10. A perpetual easement has been granted and recorded for installation and maintenance of any improvements involving access to the subdivision located on lands outside the boundaries of the subdivision.
11. All required improvements depicted on the preliminary plat and final plat are installed, inspected, and accepted by the County, or are subject to a performance guarantee (see [Section <>, Performance Guarantees](#));
12. The final plat complies with all standards and conditions of any applicable permits and development approvals; and
13. The final plat complies with all other applicable requirements in this Ordinance and the County Code of Ordinances.
14. Final plats of land located within the special flood hazard area shall comply with the standards in [Section <>, Floodplain Management](#) [Special Flood Hazard Area Overlay](#), and include the following statement:  
*"Use of land within a floodplain or a special flood hazard area is substantially restricted by Camden County."*

#### E. Delay of Approval Authorized

The Board of Commissioners may delay approval of a final plat on land where timber is harvested in advance of an application for either of the following time periods:

1. Up to three years after completion of timber harvesting, if the harvest results in the removal of all, or substantially all, of the trees that would be protected by [Section <>, Tree Protection](#); or
2. Up to five years after completion of timber harvesting, if the harvest results in the removal of all, or substantially all, of the trees that would be protected by [Section <>, Tree Protection](#), if the harvest was conducted as a willful violation of these standards.

#### F. Effect

##### 1. General

- a. Approval of a final plat allows the sale or conveyance of lots within the subdivision.
- b. Building permits may be issued following recordation of the final plat.
- c. There is no requirement that all land subject to a preliminary plat be included within a single final plat.

##### 2. Acceptance of Public Infrastructure

- a. Approval and recordation of a final plat constitutes dedication by the owner and acceptance by the County and the public of the right-of-way of each public street, alley, or utility easement shown on the plat.
- b. Approval of the final plat does not constitute acceptance for maintenance responsibility of any improvements within a right-of-way or easement and the County assumes no responsibility to open, operate, repair, or maintain any improvements until it is in the public interest to do so. Improvements within right-of-ways or easements, such as utilities, streets, drainage facilities, or sidewalks may be accepted for maintenance by the County, when deemed appropriate, in the County's sole discretion.
- c. The subdivider shall retain responsibility for public improvements until maintenance responsibility is accepted by the County, NCDOT, or a public utility provider, as appropriate.

#### G. Amendment

Applicable (see [Section <>, Amendment](#)).

#### H. Expiration



## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.13 Final Plat<sup>58</sup>

1. A final plat shall be null and void unless it is recorded in the office of the Camden County Register of Deeds within 30 days of approval.<sup>58</sup>
2. If a final plat is not recorded within two years of the associated preliminary plat approval then the preliminary plat shall expire.
3. An expired preliminary plat may be resubmitted in accordance with **Section <>, Preliminary Plat**, and shall be reviewed in accordance with the standards of this Ordinance.
4. A recorded final plat shall not expire.

#### I. Appeal

1. A decision on a final plat shall be subject to review by District 1 Superior Court by proceedings in the nature of certiorari and in accordance with Section 160A-393 of the North Carolina General Statutes.
2. Petitions for review must be filed with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

<sup>58</sup> NOTE TO STAFF: This section replaces Section 151.246 of the current ordinance, which allows 90 days to record a final plat. We suggest this time period be reduced to 30 days.

# ARTICLE 151.2 PROCEDURES

## Section 2.3 Specific Review Procedures

2.3.14 Reserved

### 2.3.14 RESERVED

### 2.3.15 FLOODPLAIN DEVELOPMENT PERMIT<sup>59</sup>

#### A. Purpose and Intent

The purpose for this floodplain development permit procedure is to establish a development review procedure for development within a special flood hazard area in order to reduce the potential for damage to land, development, and loss of life from flooding or floodwaters in areas subject to periodic inundation.

#### B. Applicability

1. Development proposed on land in a special flood hazard area shall obtain a floodplain development permit in accordance with this section prior to or concurrent with an application for a site plan, building permit, or zoning compliance permit, as appropriate.
2. In addition to a floodplain development permit, development subject to these standards shall also obtain an elevation certificate in accordance with the standards in this section as part of the construction process and prior to issuance of a certificate of occupancy.

#### C. Floodplain Development Permit Procedure

1. **Pre-Application Conference**  
Optional (see Section <>, Pre-Application Conference).
2. **Application Submittal**  
Applicable (see Section <>, Application Submittal).
3. **Staff Review and Action**
  - a. Applicable (see Section <>, Staff Review and Action).
  - b. The Floodplain Administrator shall review and decide the application in accordance with Section <>, Floodplain Development Permit Review Standards.

#### D. Floodplain Development Permit Review Standards

A floodplain development permit shall be approved if the application complies with the following:

1. The permit is issued prior to the commencement of development;
2. The requirement for all lots to be certified by Albemarle Regional Health Services as capable of accommodating the wastewater generated from the proposed use, in cases when the lot(s) is not served by a centralized wastewater system;
3. The development complies with all applicable standards in Section <>, Development in Special Flood Hazard Areas.

#### E. Conditions of Approval

Applicable (see Section <>, Conditions of Approval).

#### F. Effect

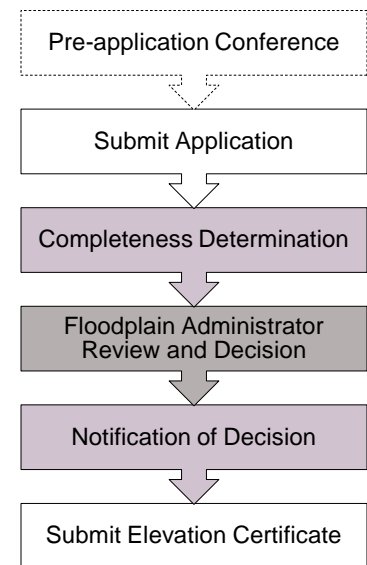
Approval of a floodplain development permit authorizes an applicant to obtain all required elevation certificates or other required certificates and proceed with development following issuance of a building permit.<sup>60</sup>

#### G. Amendment

Amendment of a floodplain development permit approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

#### H. Expiration

**FIGURE <>  
FLOODPLAIN  
DEVELOPMENT PERMIT  
PROCEDURE**



<sup>59</sup> NOTE TO STAFF: This section includes the floodplain development permit procedure described in Section 151.382 of the current ordinance, but in the standardized format used for other procedures. Section 151.383 describes the current floodplain development application process and includes a series of submittal requirements (151.383(B)&(C)). As mentioned in the Standard Review Procedures section, we suggest the County relocate submittal requirements to an outside administrative manual or users guide. As such, the submittal requirements in the current ordinance are not included with these standards.

<sup>60</sup> NOTE TO STAFF: Additional discussion is needed on timing of permit and certificates. Typically, it seems as though the permit is issued, and then certificates have to be issued during construction. Issuance of a building permit to start construction is dependent on having the floodplain permit.

## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.15 Floodplain Development Permit58F

1. Except where associated with a subdivision approval, a floodplain development permit shall expire and become null and void if the development it authorizes is not commenced within six months of permit issuance.
2. In the case of a floodplain development permit associated with a subdivision, the permit shall expire and become null and void upon the expiration of the preliminary or final plat.

#### I. Appeal

Appeal of a decision on a floodplain development permit shall be reviewed and decided by the BOA in the nature of certiorari and in accordance with **Section <>, Appeal.**

#### J. Elevation Certificates

Following issuance of a floodplain development permit an applicant shall file an elevation certificate in accordance with the following standards.

##### 1. Initial Certificate

An elevation certificate (FEMA Form 81 31) or floodproofing certificate (FEMA Form 81 65) is required prior to the actual start of any new construction, and shall be provided in accordance with the following:

- a. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, or floodproofed elevation, in relation to mean sea level.
- b. An elevation certification shall be prepared by, or under direct supervision of, a registered land surveyor or professional engineer and certified by same.
- c. The Floodplain Administrator shall review the certificate data and any deficiencies shall be corrected by the permit holder prior to the beginning of construction.
- d. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

##### 2. Reference Level Certificate

An elevation certificate (FEMA Form 81 31) or floodproofing certificate (FEMA Form 81 65) is required after the reference level is determined, in accordance with the following:

- a. Within ten calendar days of establishment of the reference level elevation, or floodproofing, by whatever construction means, whichever is applicable, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, or floodproofed elevation, whichever is applicable in relation to mean sea level.
- b. An elevation certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same.
- c. A floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.
- d. Any work done within the ten-day calendar period and prior to submission of the certification shall be at the permit holder's risk.
- e. The Floodplain Administrator shall review the data and any deficiencies shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed.
- f. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

##### 3. Final Certificate

A final as-built elevation certificate (FEMA Form 81 31) or floodproofing certificate (FEMA Form 81 65) is required after construction is completed and prior to certificate of occupancy issuance, in accordance with the following:

- a. A final elevation certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same.
- b. A final floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.
- c. The Floodplain Administrator shall review the data and any deficiencies shall be corrected by the permit holder immediately and prior to certificate of occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction.
- d. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a certificate of occupancy.

##### 4. Additional Requirements

- a. If a manufactured home is placed within an A, AE, or AI 30 flood zone and the elevation of the chassis is above 36 inches in height, an engineered foundation certification is required in accordance with **Section <(3.8.4.G.2.c)>, Manufactured Homes.**
- b. If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.15 Floodplain Development Permit58F

##### 5. Certificate Exemptions

The following structures, if located within A, AE or AI 30 flood zones, are exempt from the elevation/floodproofing certification requirements in this section:

- a. Recreational vehicles meeting requirements of Section <(3.8.4.G.2.f)>, Recreational Vehicles;
- b. Temporary structures meeting requirements of Section <(3.8.4.G.2.g)>, Temporary Structures;  
and
- c. Accessory structures less than 150 square feet meeting requirements Section <(3.8.4.G.2.h)>, Accessory Structures.

# ARTICLE 151.2 PROCEDURES

## Section 2.3 Specific Review Procedures

2.3.16 Interpretation60F

### 2.3.16 INTERPRETATION<sup>61</sup>

#### A. Purpose and Intent

The purpose for this interpretation procedure is to provide a process where an applicant may request documentation from UDO Administrator regarding the meaning of language in this Ordinance, boundaries on the OZM, or conditions of an approval.

#### B. Applicability

The UDO Administrator is responsible for written interpretations, including, but not limited to interpretations of:

1. The meaning of the text in this Ordinance;
2. The location and extent of zoning district boundaries on the OZM;
3. Interpretations of whether an unlisted use is comparable to a use listed in **Table <>, Principal Use Table;**
4. Definitions of undefined terms; and
5. Compliance with conditions of approval.

#### C. Interpretations Distinguished

1. Only formal interpretations issued in accordance with this procedure are subject to appeal as an administrative decision.
2. Any written or oral interpretations that do not meet the strict requirements of this section are advisory interpretations.
3. Advisory interpretations have no binding effect and are not considered administrative decisions subject to appeal.

#### D. Interpretation Procedure

##### 1. Pre-Application Conference

Optional (see **Section <>, Pre-Application Conference**).

##### 2. Application Submittal and Acceptance

Applicable (see **Section <>, Application Submittal and Acceptance**).

a. Any person may request a formal interpretation of any provision of this Ordinance, the location of a zoning district boundary, how a proposed use may be treated, a definition, or a prior condition of approval, provided the request:

1. Relates to a specific parcel of property, section of this UDO, or prior development approval;
2. Is made in writing; and
3. States all of the necessary facts to make the interpretation or enable research.

b. If a request relates to a particular lot or site and the applicant is not the owner, agent, or contract purchaser, the applicant must certify that a copy of the request has been provided to the landowner prior to submittal to the County.

##### 3. Staff Review and Action

a. Applicable (see **Section <>, Staff Review and Action**).

b. The UDO Administrator shall review the request and make interpretations in accordance with **Section <>, Interpretation Review Standards**.

c. The UDO Administrator may request additional information as necessary to make an interpretation.

d. Prior to rendering an interpretation, the UDO Administrator may consult with the County Attorney or other County officials.

#### E. Interpretation Review Standards

##### 1. Official Zoning Map Boundaries

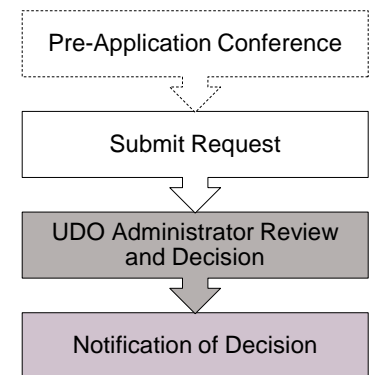
Interpretation of district boundaries on the OZM shall be in accordance with the standards in **Section <>, Interpretation of Official Map Boundaries**, and consistent with the County's adopted policy guidance.

##### 2. Unlisted Uses

Interpretation of whether an unlisted use is similar to a use identified in **Table <>, Principal Use Table**, shall be based on consistency with the County's adopted policy guidance and the following standards:

- a. The function, product, or physical characteristics of the use;
- b. The impact on adjacent lands created by the use;
- c. The type, size, and nature of buildings and structures associated with the use;

**FIGURE <>  
INTERPRETATION  
PROCEDURE**



<sup>61</sup> This section replaces Section 151.533 of the current ordinance, and broadens the interpretation procedure to handle all aspects of the UDO text, including unlisted uses, as well as interpretation of conditions of approval. The UDO Administrator, not the BOA is the review authority authorized to interpret the Official Zoning Map.

## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.16 Interpretation60F

- d. The type of sales (retail, wholesale), and the size and type of items sold and displayed on the premises;
- e. The types of items stored (such as vehicles, inventory, merchandise, chemicals, construction materials, scrap and junk, and raw materials including liquids and powders);
- f. The volume and type of vehicle traffic generated by the use, and the parking demands of the use;
- g. Any processing associated with the use, including assembly, manufacturing, warehousing, shipping, distribution, and whether it occurs inside or outside a building;
- h. Any dangerous, hazardous, toxic, or explosive materials associated with the use;
- i. The amount and nature of any nuisances generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation, and fumes; and
- j. Any prior applicable interpretations made by the UDO Administrator or decisions made by the BOA.

#### 3. Undefined Term

If a term in this Ordinance is undefined or the meaning is unclear, the UDO Administrator may interpret the term based upon appropriate definitions in any of the following sources:

- a. Planning-related definitions in publications prepared or offered by the American Planning Association or the Urban Land Institute;
- b. The Oxford Dictionary of Construction, Surveying, and Civil Engineering;
- c. The North Carolina General Statutes;
- d. The North Carolina Administrative Code;
- e. The State Building Code;
- f. Black's Law Dictionary; or
- g. Other professionally-accepted source.

#### 4. Text Provisions and Prior Approvals

Interpretation of this text and approved applications shall be based on the standards in **Section <>, Rules of Language Construction**, and the following considerations:

- a. When the legislative intent of a provision is unclear, the UDO Administrator shall consider the clear and plain meaning of the provision's wording, as defined by the meaning and significance given specific terms used in the provision—as established in **Section <>, Definitions**, and by the common and accepted usage of the term;
- b. The intended purpose of the provision, as indicated by purpose statements, its context and consistency with surrounding and related provisions, and any legislative history related to its adoption;
- c. The general purposes served by this Ordinance, as set forth in **Section <>, General Purpose and Intent**; and
- iv. Consistency with the County's adopted policy guidance.

#### 5. Effect

##### a. General

1. A written interpretation shall be binding on subsequent decisions by the UDO Administrator or other administrative officials in applying the same provision of this Ordinance or the OZM in the same circumstance, unless the interpretation is modified in accordance with this section, the interpretation is later determined to have been made in error, or the text of this Ordinance is amended.
2. The UDO Administrator shall maintain a record of written interpretations that shall be available in the Planning Department for public inspection, on reasonable request, during normal business hours.

##### b. Approval of Unlisted Use

1. After the UDO Administrator determines the use category or use type in which the unlisted use is best classified, then the unlisted use shall be subject to all applicable requirements of that use category or use type.
2. After making an interpretation of an unlisted use, the UDO Administrator shall determine whether the unlisted use is likely to be common or recur frequently, and whether its omission is likely to lead to uncertainty and confusion. On determining that the unlisted use is likely to be common and would lead to confusion if unlisted, the UDO Administrator shall initiate an application for an amendment to the text of this Ordinance. Until final action is taken on the text amendment, the UDO Administrator's decision shall be binding.
3. If after making an interpretation of an unlisted use, the UDO Administrator determines that the unlisted use is of an unusual or transitory nature, and unlikely to recur frequently, the determination shall be binding without further action or amendment of this Ordinance.

## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

2.3.16 Interpretation60F

**6. Appeal**

Appeal of a decision on a floodplain development permit shall be reviewed and decided by the BOA in the nature of certiorari and in accordance with **Section <>, Appeal**.



# ARTICLE 151.2 PROCEDURES

## Section 2.3 Specific Review Procedures

2.3.17 Major Site Plan<sup>61F</sup>

### 2.3.17 MAJOR SITE PLAN<sup>62</sup>

#### A. Purpose and Intent

The purpose for the major site plan procedure is to establish a consistent and predictable process for the review of proposed development (through a graphical representation of the proposal). Major site plan reviews are intended for larger or more complex development proposals.

#### B. Applicability

1. Major site plan review is applicable to any development activity listed in subsection (2) below, but does not include those forms of development listed in **Section <>, Exemptions from Major Site Plan Review**.
2. A major site plan shall be required for the following types of development:
  - a. New non-residential or mixed-use development;
  - b. Expansions to existing non-residential, mixed-use, or multi-family development that exceed 20 percent of existing floor or outdoor use area or that require additional off-street parking or landscaping;
  - c. New multi-family development;
  - d. Establishment or expansion of an existing manufactured home park;
  - e. New single-family attached development;
  - f. New triplex or quadraplex development; and
  - g. Any form of development not exempted from major site plan review.

#### C. Exemptions from Major Site Plan Review

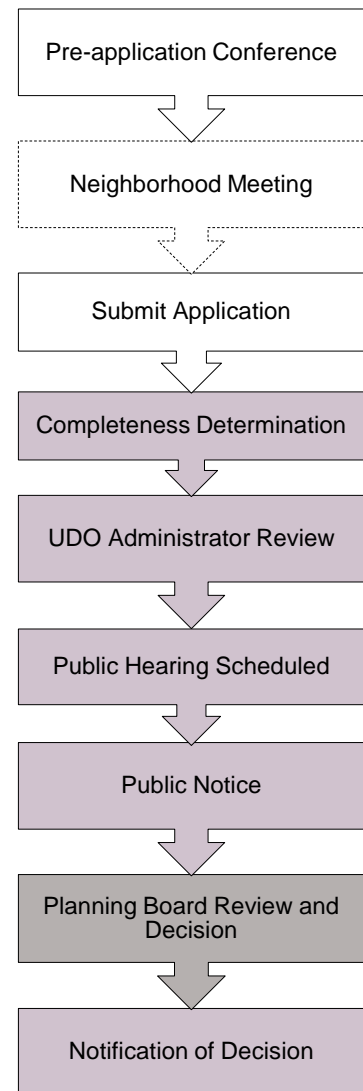
The following forms of development are not required to obtain major site plan approval but are subject to the requirements for a zoning compliance permit (see **Section <>, Zoning Compliance Permit**), or building permit (see **Section <> Building Permit**), as appropriate:

1. Development subject to review as a minor site plan in accordance with **Section <>, Minor Site Plan**;
2. Establishment of an accessory use or structure, in accordance with **Section <>, Accessory Uses**;
3. Enlargements of existing principal structures or existing outdoor use areas by up to 20 percent of the total gross floor (or use) area, provided the enlargement does not result in a need for additional off-street parking spaces or landscaping; and
4. Changes of use that do not result in increased lot coverage, the need for additional off-street parking spaces, or additional landscaping.

#### D. Major Site Plan Procedure

1. **Pre-Application Conference**  
Applicable (see **Section <>, Pre-Application Conference**).
2. **Neighborhood Meeting**  
Optional (see **Section <>, Neighborhood Meeting**).
3. **Application Submittal**
  - a. Applicable (see **Section <>, Application Submittal**).
  - b. In cases where a major site plan is part of a larger phased development, the application materials shall illustrate all various stages and phases of the development as well as the schedule for completion of public and private improvements associated with the development.
4. **Staff Review**
  - a. Applicable (see **Section <>, Staff Review and Action**).
  - b. The UDO Administrator shall prepare a staff report and provide a recommendation in accordance with **Section <>, Major Site Plan Review Standards**.

**FIGURE <> MAJOR SITE PLAN PROCEDURE**



<sup>62</sup> This section replaces Section 151.312 of the current ordinance. The current code makes distinctions between residential and commercial site plans, and lists detailed site plan submittal requirements, but is silent on the procedures for review, exemptions, and review criteria. This section establishes the major site plan review procedure (replacing the commercial site plan section), which is reviewed and decided by the Planning Board. The site plan submittal requirements are proposed for relocation to an outside manual and have not been carried forward.

## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.17 Major Site Plan61F

##### 5. Public Notice

Applicable (see Section <>, Public Notice).

##### 6. Review and Decision by Planning Board

a. Applicable (see Section <>, Action by Review Authority, and Section <>, Public Meetings and Hearings).

b. The Planning Board, after the conclusion of a legislative public hearing, shall review and decide the application in accordance with Section <>, Major Site Plan Review Standards. The decision shall be the one of the following:

1. Approval of the major site plan as proposed;
2. Approval of a revised major site plan; or
3. Denial of the major site plan.

##### E. Major Site Plan Review Standards

A major site plan shall be approved if the application complies with:

1. All standards or conditions of any prior applicable permits and development approvals;
2. The requirement that the lot is already served by a NCDOT-maintained roadway or a right-of-way constructed to and maintained in accordance with NCDOT standards;
3. The requirement for all lots to be certified by Albemarle Regional Health Services as capable of accommodating the wastewater generated from the proposed use, in cases when the lot(s) is not served by a centralized wastewater system;
4. All applicable requirements of this Ordinance and the County Code of Ordinances; and
5. All applicable State and federal requirements.

##### F. Delay of Approval Authorized

The Planning Board may delay approval of a major site plan on land where timber is harvested in advance of an application for either of the following time periods:

1. Up to three years after completion of timber harvesting, if the harvest results in the removal of all, or substantially all, of the trees that would be protected by Section <>, Tree Protection; or
2. Up to five years after completion of timber harvesting, if the harvest results in the removal of all, or substantially all, of the trees that would be protected by Section <>, Tree Protection, if the harvest was conducted as a willful violation of these standards.

##### G. Conditions of Approval

Applicable (see Section <>, Conditions of Approval).

##### H. Effect

###### 1. General

Approval of a site plan authorizes the submittal of construction plans, if applicable, and the submittal of an application for a building permit in accordance with Section <>, Building Permit, or a zoning compliance permit in accordance with Section <>, Zoning Compliance Permit.

###### 2. Phased Development

In the cases of phased development, site plans shall include all necessary public improvements within the phase as well as outside the phase, but necessary to serve the development within that phase.

###### 3. Performance Guarantees

All public or required private improvements (like stormwater management facilities) that have not been installed by the developer, inspected, and accepted by the County (as appropriate) shall be subject to the standards in Section <>, Performance Guarantees, prior to issuance of a certificate of occupancy.

###### 4. As-Built Plans

As-builts shall be installed for any public improvements shall be submitted to the Building Inspector in accordance with Section <>, As-Built Plans Required.

##### I. Amendment

Applicable (see Section <>, Amendment).

##### J. Expiration

Major site plan approval shall expire and become null and void if the development approved in the major site plan does not begin within 18 months of issuance of the approval.

##### K. Appeal

1. A decision on a major site plan shall be subject to review by District 1 Superior Court by proceedings in the nature of certiorari and in accordance with Section 160A-393 of the North Carolina General Statutes. Petitions for review must be filed with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

ARTICLE 151.2 PROCEDURES

Section 2.3 Specific Review Procedures

2.3.18 Minor Site Plan<sup>63</sup>

2.3.18 MINOR SITE PLAN<sup>63</sup>

A. Purpose and Intent

The purpose for the minor site plan procedure is to establish a consistent and predictable process for the review of proposed small-scale or low intensity development (through a graphical representation of the proposal). Minor site plan reviews are intended for smaller or less complex development proposals than those reviewed as major site plans.

B. Applicability

Review of a minor site plan application shall be required for the following forms of development:

1. New single-family detached development;
2. New duplex or two-family development;
3. Expansions to existing non-residential, mixed-use, or multi-family development that do not exceed 20 percent of existing floor or outdoor use area or that do not require additional off-street parking or landscaping; and
4. Any form of development not exempted from minor site plan review or reviewed as a major site plan (see Section <>, Major Site Plan).

C. Exemptions from Minor Site Plan Review

The following forms of development are not required to obtain minor site plan approval but are subject to the requirements for a zoning compliance permit (see Section <>, Zoning Compliance Permit), or building permit (see Section <> Building Permit), as appropriate:

1. Establishment of an accessory use or structure, in accordance with Section <>, Accessory Uses; and
2. Changes of use that do not result in increased lot coverage, the need for additional off-street parking spaces, or additional landscaping.

D. Designation as a Major Site Plan Authorized

In cases where timber harvesting takes place up to three years prior to the submittal of a minor site plan application, the UDO Administrator may designate the minor site plan as a major site plan subject to the standards and requirements in Section <>, Major Site Plan, including the delay of approval.

E. Minor Site Plan Procedure

1. Pre-Application Conference

Applicable (see Section <>, Pre-Application Conference).

2. Neighborhood Meeting

Optional (see Section <>, Neighborhood Meeting).

3. Application Submittal

a. Applicable (see Section <>, Application Submittal).

b. In cases where a minor site plan is part of a larger phased development, the application materials shall illustrate all various stages and phases of the development as well as the schedule for completion of public and private improvements associated with the development.

4. Staff Review and Action

a. Applicable (see Section <>, Staff Review and Action).

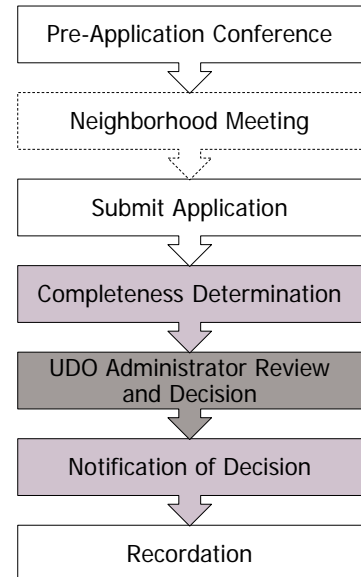
b. The UDO Administrator shall review and decide the application in accordance with Section <>, Minor Site Plan Review Standards.

F. Minor Site Plan Review Standards

A minor site plan shall be approved if the application complies with:

1. All standards or conditions of any prior applicable permits and development approvals;
2. The requirement that the lot is already served by a NCDOT-maintained roadway or a right-of-way constructed to and maintained in accordance with NCDOT standards;
3. The requirement for all lots to be certified by Albemarle Regional Health Services as capable of accommodating the wastewater

FIGURE <> MINOR SUBDIVISION PROCEDURE



<sup>63</sup> This section replaces Section 151.311 of the current ordinance. The current code makes distinctions between residential and commercial site plans, and lists detailed site plan submittal requirements, but is silent on the procedures for review, exemptions, and review criteria. This section establishes the minor site plan review procedure (replacing the residential site plan procedure), which is reviewed and decided by the UDO Administrator. The site plan submittal requirements are proposed for relocation to an outside manual and have not been carried forward.

## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.18 Minor Site Plan62F

generated from the proposed use, in cases when the lot(s) is not served by a centralized wastewater system;

4. All applicable requirements of this Ordinance and the County Code of Ordinances; and
5. All applicable County, State, and federal requirements.

#### G. **Conditions of Approval**

Applicable (see [Section <>, Conditions of Approval](#)).

#### H. **Effect**

##### 1. **General**

Approval of a minor site plan authorizes the submittal of construction plans, if applicable, and the submittal of an application for a building permit in accordance with [Section <>, Building Permit](#), or a zoning compliance permit in accordance with [Section <>, Zoning Compliance Permit](#).

##### 2. **Performance Guarantees**

All public or required private improvements (like stormwater management facilities) that have not been installed by the developer, inspected, and accepted by the County shall be subject to the standards in [Section <>, Performance Guarantees](#), prior to issuance of a certificate of occupancy.

##### 3. **As-Built Plans**

As-builts shall be installed for any public improvements shall be submitted to the Building Inspector in accordance with [Section <>, As-Built Plans Required](#).

#### I. **Amendment**

Applicable (see [Section <>, Amendment](#)).

#### J. **Expiration**

Minor site plan approval shall expire and become null and void if the development approved in the minor site plan does not begin within 18 months of issuance of the approval.

#### K. **Appeal**

Appeal of a decision on a minor site plan shall be reviewed and decided by the BOA in the nature of certiorari and in accordance with [Section <>, Appeal](#).

ARTICLE 151.2 PROCEDURES

Section 2.3 Specific Review Procedures

2.3.19 Minor Subdivision63F

2.3.19 MINOR SUBDIVISION<sup>64</sup>

A. Purpose and Intent

The purpose for this minor subdivision review procedure is to allow certain land divisions to be reviewed via an administrative review procedure based on the limited number of new lots and the lack of public utility extensions (e.g., streets or public wastewater).

B. Applicability

1. Subdivisions of land that include up to five lots (including the residual parcel) with no extension of public streets, public water, public sewer, or other public utility are minor subdivisions and shall be reviewed in accordance with the standards in this section.
2. Land subject to a minor subdivision approved after (insert the effective date of this Ordinance) shall not be re-subdivided as a minor subdivision, but shall instead be subject to the standards in Section <>, Expedited Subdivision, Section <>, Transfer Plat, or Section <>, Major Subdivision, as applicable.

C. Minor Subdivision Procedure

1. Pre-Application Conference

Applicable (see Section <>, Pre-Application Conference).

2. Neighborhood Meeting

Applicable (see Section <>, Neighborhood Meeting).

3. Application Submittal

a. Applicable (see Section <>, Application Submittal).

b. Applications shall be prepared by a registered land surveyor or professional engineer licensed to practice in North Carolina.

c. Except for subdivisions where all lots shall be served by a central wastewater system, applications for a minor subdivision shall include an evaluation from Albemarle Regional Health Services indicating that an on-site wastewater system may be used on each lot included in the subdivision.

e-d. In cases where a minor subdivision is part of a larger phased development, the application materials shall illustrate all various stages and phases of the development as well as the schedule for completion of public and private improvements associated with the development.

4. Staff Review and Action

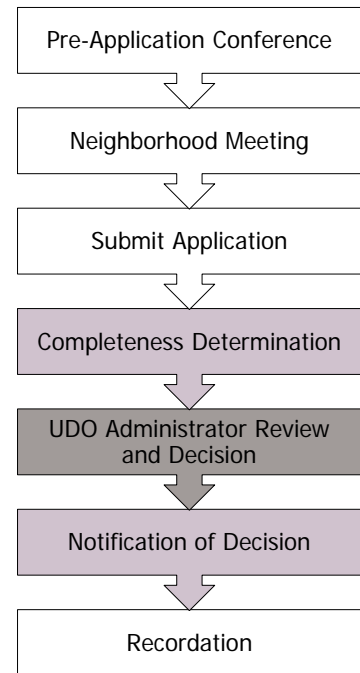
a. Applicable (see Section <>, Staff Review and Action).

b. The UDO Administrator shall review the application and may submit it to technical staff or to other outside agencies, as appropriate, for further technical review.

c. Following receipt of comments from technical review, if conducted, the UDO Administrator shall review and decide the application in accordance with Section <>, Minor Subdivision Review Standards.

5. Recordation

FIGURE <> MINOR SUBDIVISION PROCEDURE



<sup>64</sup> NOTE TO STAFF: This section sets out the minor subdivision procedure, and consolidates the standards in Section 151.260 and Sections 151.275 through 151.278 related to the private access subdivisions. The current minor subdivision procedure allows a subdivision of up to 5 lots with no right-of-way dedication and possible utility extension to be approved as minor subdivision. The current private access subdivision allows up to 5 lots with right-of-way dedication and utility extension to be allowed as a private access subdivision. As discussed on Page 40 of the Evaluation Report, this draft ordinance consolidates the minor and private access subdivisions into a single procedure. It is not typical to allow subdivisions with right-of-way dedication and utility extension to be reviewed as minor plats since these activities are typically subject to construction drawing review and some form of inspection and acceptance of infrastructure by the County prior to approval of a final plat. These standards remove the ability to approve the establishment of additional lots via zoning permit, as described in Section 151.260.B and remove discussion of an "abbreviated" procedure. Submittal requirements and elements to include on the plat in Section 151.262 and Section 151.277 have not been carried forward (though the certifications are relocated to Article 151.6: Subdivisions). This section is also drafted to conform to Session Law 2017-10 from the General Assembly. It would be possible to do away with this procedure and use the expedited subdivision review procedure instead, but this would render any subdivision over three lots as a major subdivision.

## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.19 Minor Subdivision63F

- a. Once a minor subdivision is approved, a signed statement of approval by the UDO Administrator shall be entered on the face of the plat. The minor subdivision plat may not be recorded without this certification.
- b. A minor subdivision plat shall not be recorded until after the UDO Administrator receives confirmation that the proposed subdivision has been approved by the appropriate United States Postmaster, or evidence that the applicant has addressed comments submitted by the Postmaster.
- c. Failure to record the minor subdivision plat in accordance with **Section <>, Expiration**, shall render the minor subdivision plat null and void.

#### 6. Minor Subdivision Review Standards

- a. A minor subdivision shall be approved if the application complies with the following:
  1. The minor subdivision plat is on a sheet or sheets suitable for recording with the Camden County Register of Deeds;
  2. The minor subdivision plat is prepared and sealed by a licensed professional land surveyor or licensed professional engineer;
  3. The minor subdivision plat complies with the applicable standards in Section 47-30 of the North Carolina General Statutes;
  4. The minor subdivision plat includes all required certifications in **Section <>, Certifications**;
  5. All lots have been certified by Albemarle Regional Health Services as capable of accommodating the wastewater generated from the proposed use, in cases when the lot(s) is not served by a centralized wastewater system;
  6. All lots shall be served by a NCDOT-maintained roadway or a right-of-way constructed to and maintained in accordance with NCDOT standards;
  7. The applicant has secured all required State, federal, and other applicable County permit approvals;
  8. The minor subdivision is in substantial conformance with all applicable requirements in **Article 151.6: Subdivision Requirements**;
  9. All lots in the minor subdivision shall maintain minimum lot widths on state-maintained roadways or improved subdivision streets;
  10. A perpetual easement has been granted and recorded for installation and maintenance of any improvements for any right-of-way access serving the minor subdivision located on lands outside the boundaries of the subdivision;
  11. All required improvements depicted on the minor subdivision plat are installed and inspected by the County, or are subject to a performance guarantee (see **Section <>, Performance Guarantees**);
  12. The minor subdivision complies with all standards and conditions of any applicable permits and development approvals; and
  13. The minor subdivision complies with all other applicable requirements in this Ordinance and the County Code of Ordinances.
- b. Minor subdivisions of land located within the special flood hazard area shall comply with the standards in **Section <>, Special Flood Hazard Area Overlay**~~Special Flood Hazard Overlay~~, and include the following statement:

*“Use of land within a floodplain or a special flood hazard area is substantially restricted by Camden County.”*
- c. If the minor subdivision is required to provide a connection to a public water supply system, the plat shall include the following statement:

*“The developer is required to install all water lines and related improvements.”*
- d. In cases where land subject to a preliminary plat is located within an AEC approved preliminary plats shall bear a certification from the County certifying compliance with all AEC requirements.

#### D. Decision by Board of Commissioners

In cases where timber harvesting takes place up to three years prior to the submittal of a minor subdivision application, the UDO Administrator may forward the minor subdivision application to the Planning Board and Board of Commissioners for review and decision in accordance with the preliminary plat procedure (see Section <>, Preliminary Plat). The Board of Commissioners may delay approval of a minor subdivision on land where timber is harvested in advance of an application for either of the following time periods:

1. Up to three years after completion of timber harvesting, if the harvest results in the removal of all, or substantially all, of the trees that would be protected by **Section <>, Tree Protection**; or
2. Up to five years after completion of timber harvesting, if the harvest results in the removal of all, or substantially all, of the trees that would be protected by **Section <>, Tree Protection**, if the harvest was conducted as a willful violation of these standards.

#### E. Effect



## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.19 Minor Subdivision63F

Approval of a minor subdivision allows the sale or conveyance of lots within the subdivision. Building permits may be issued following recordation of the minor subdivision plat.

**F. Amendment**

Amendment of a minor subdivision approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

**G. Expiration**

1. Applicable (see **Section <>, Expiration**).

2. A minor subdivision plat shall be null and void unless it is recorded in the office of the Camden County Register of Deeds within 30 days of approval.

**H. Appeal**

Appeal of a decision on a minor subdivision shall be reviewed and decided by the BOA in the nature of certiorari and in accordance with **Section <>, Appeal**.



# ARTICLE 151.2 PROCEDURES

## Section 2.3 Specific Review Procedures

2.3.20 Planned Development64F

### 2.3.20 PLANNED DEVELOPMENT<sup>65</sup>

#### A. Purpose and Intent

The purpose for this planned development procedure is to provide a uniform means for amending the Official Zoning Map to establish a Planned Development (PD) zoning district. The planned development district creates opportunities for master planned development that is developed under unified control in accordance with more flexible standards and procedures that are conducive to creating mixed-use, pedestrian-oriented development that makes efficient use of land while protecting natural resources. It is the intent of these standards to allow an applicant to propose a wide variety of allowable uses and the flexible application of some of the development standards in Article 151.5, Development Standards, in return for a higher quality of development with more amenities than might otherwise result from a strict application of the standards in this Ordinance.

#### B. Applicability

The standards in this section may be applied to any land of one acre in area or more and under unified control.

#### C. Planned Development Procedure

##### 1. Pre-Application Conference

Applicable (see Section <>, Pre-Application Conference).

##### 2. Neighborhood Meeting

Applicable (see Section <>, Neighborhood Meeting).

##### 3. Application Submittal

a. Applicable (see Section <>, Application Submittal).

b. Planned development applications may not be initiated by anyone other than the landowner(s) of the land subject to the application.

c. The application shall include a master plan depicting the general configuration and relationship of the principal elements of the proposed development, including uses, general building types, density/intensity, resource protection, pedestrian and vehicular circulation, open space, public facilities, and phasing.

d. The application shall also include a terms and conditions document that identifies how the proposed development will meet or exceed the standards in Section <>, Planned Development District, as well as how any required environmental mitigation will take place, and outline how public facilities will be provided to serve the planned development.

e. To ensure unified control, the application shall also include a copy of the title to all land that is part of the proposed PD zoning district classification.

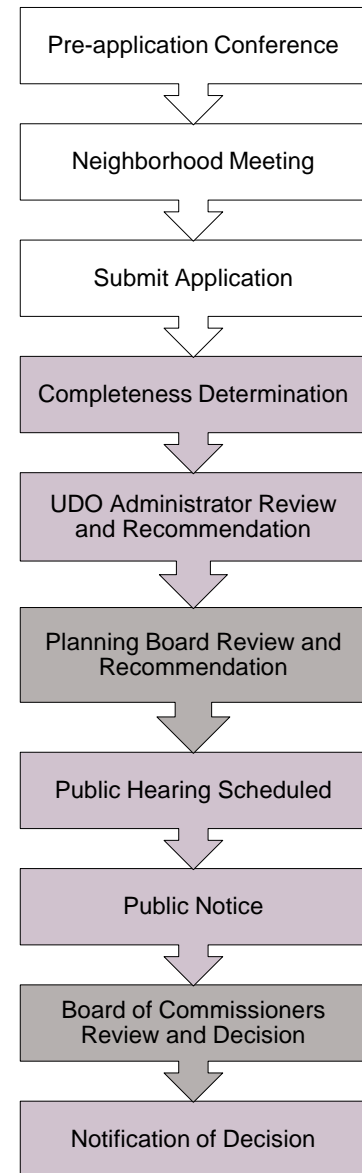
##### 4. Staff Review and Action

a. Applicable (see Section <>, Staff Review and Action).

b. The UDO Administrator shall review the application, prepare a staff report, and provide a recommendation in accordance with Section <>, Planned Development Review Standards.

##### 5. Review by Planning Board

FIGURE <> PLANNED DEVELOPMENT PROCEDURE



<sup>65</sup> This section replaces the planned development review procedure in Section 151.298 of the current ordinance as outlined on Page 42 of the Evaluation Report. Some of the key changes include removal of the conditional use permit requirement, removal of the current concept plan (in favor of a master plan adopted as part of the rezoning application), removal of the Smart Growth Scorecard requirement, and reduction of the minimum size threshold to one acre (in recognition of the need for flexibility in the village center areas). These proposed standards reference more detailed standards in Article 151.3: Zoning Districts, that address the required contents of a master plan, the required terms and conditions statement, removal of the current use mixing requirement (as it interferes with the function of the real estate market), and establishes a new range of standards that may not be varied (like those pertaining to stormwater). The application submittal requirements in Section 151.298.C.4.a are not included pending relocation to an outside user's guide or administrative manual. This procedure is also consistent with Session Law 2017-10 pertaining to required consistency statements with the County's adopted policy guidance.

## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.20 Planned Development64F

- a. Applicable (see Section <>, Review by Planning Board, and Section <>, Public Meetings and Hearings).
- b. The Planning Board, following review during a public meeting, shall make a recommendation on an application in accordance with Section <>, Planned Development Review Standards.

#### 6. Public Notice

Applicable (see Section <>, Public Notice).

#### 7. Review and Decision by Board of Commissioner

- a. Applicable. (See Section <>, Action by Review Authority, and Section <>, Public Meetings and Hearings).
- b. The Board of Commissioners, after the conclusion of a legislative public hearing, shall decide the application in accordance with Section <>, Planned Development Review Standards.
- c. The decision shall be one of the following:
  1. Approval of the planned development subject to the PD master plan and PD terms and conditions statement in the application;
  2. Approval of the planned development subject to additional or revised conditions related to the PD master plan or PD terms and conditions statement;
  3. Denial of the planned development; or
  4. Remand of the planned development application back to the Planning Board for further consideration.
- d. In making its decision, the Board of Commissioners shall adopt a written statement including each of the following:
  1. Whether the planned development application (and associated zoning map amendment) is approved, denied, or remanded; and
  2. The degree to which the planned development application (and associated zoning map amendment) is or is not consistent with the County's adopted policy guidance; and
  3. The ways in which the planned development application (and associated zoning map amendment) is or is not consistent with the County's adopted policy guidance; and
  4. Whether approval of the planned development application also amends or does not amend the County's adopted policy guidance; and
  5. If the adopted policy guidance is amended as part of the application approval, a description of the change in conditions to meet the development needs of the County that were taken into account as part of the approval; and
  6. An explanation of why the action taken by the Board of Commissioners is reasonable; and
  7. An explanation of why the action taken by the Board of Commissioners is in the public interest.

#### D. Planned Development Review Standards

The advisability of amending the OZM to establish a planned development district is a matter committed to the legislative discretion of the Board of Commissioners and is not controlled by any one factor. In determining whether to adopt or deny a planned development, the Board of Commissioners may consider the standards in Section <>, Zoning Map Amendment Standards, and the standards for the proposed type of PD district in Section <>, Planned Development District.

#### E. Designation on the Official Zoning Map

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

#### F. Effect

1. Lands rezoned to a PD district shall be subject to the approved PD master plan and the approved PD terms and conditions.
2. The master plan and terms and conditions are binding on the land as an amendment to the Official Zoning Map.
3. The applicant may apply for and obtain subsequent development permits and approvals necessary to implement the PD master plan in accordance with the appropriate procedures and standards set forth in this Ordinance.
4. Any permits or approvals shall comply with the PD master plan and the PD terms and conditions.
5. Only those portions of the development subject to an approved PD master plan and PD terms and conditions shall be included in development activities.

#### G. Amendment

Applicable (see Section <>, Amendments).

#### H. Expiration

1. If no application for approval of a preliminary plat or site plan for any part of the approved PD master plan is submitted within two years after approval of the planned development, the UDO Administrator shall

## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.20 Planned Development64F

initiate a zoning map amendment application to rezone the land back to its prior zoning classification or any other general zoning classification determined to be appropriate. Such time period shall not be extended with transfer of ownership.

2. Upon written request submitted at least 30 days before expiration of the two-year period provided in subsection (1) above, and upon a showing of good cause, the UDO Administrator may grant one extension not to exceed one year for the applicant to submit required development applications.

#### I. **Appeal**

1. Appeal of a decision on a planned development shall be subject to review by the District 1 Superior Court.
2. Petitions for review must be filed with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

# ARTICLE 151.2 PROCEDURES

## Section 2.3 Specific Review Procedures

2.3.21 Preliminary Plat65F

### 2.3.21 PRELIMINARY PLAT<sup>66</sup>

#### A. Purpose and Intent

The purpose for this preliminary plat procedure is to establish a fair, consistent and predictable procedure for the review of requests to divide land into a series of lot for development or sale in ways that promote the health, safety, and welfare of the citizens of Camden County. The intent of these standards is to ensure:

1. Orderly growth and development;
2. Coordination of transportation and utility networks;
3. Preservation of open space for purposes of recreation or natural resource protection;
4. Protection from flooding, damaging sedimentation, and decreased surface water quality; and
5. Distribution of population in ways that supports infrastructure investment and diminishes the impact of traffic and overcrowding.

#### B. Applicability

Divisions of land that do not qualify as an exempt subdivision (see Section <>, Exempt Subdivisions), expedited subdivision (see Section <>, Expedited Subdivisions), minor subdivision (see Section <>, Minor Subdivisions), or transfer plat (see Section <>, Transfer Plats) shall be reviewed and decided as a preliminary plat in accordance with these standards

#### C. Preliminary Plat Review Procedure

##### 1. Pre-Application Conference

- a. Applicable (see Section <>, Pre-Application Conference).
- b. Except for subdivisions where all lots shall be served by a central wastewater system, applications for an expedited subdivision shall include an evaluation from Albemarle Regional Health Services indicating that an on-site wastewater system may be used on each lot included in the subdivision.

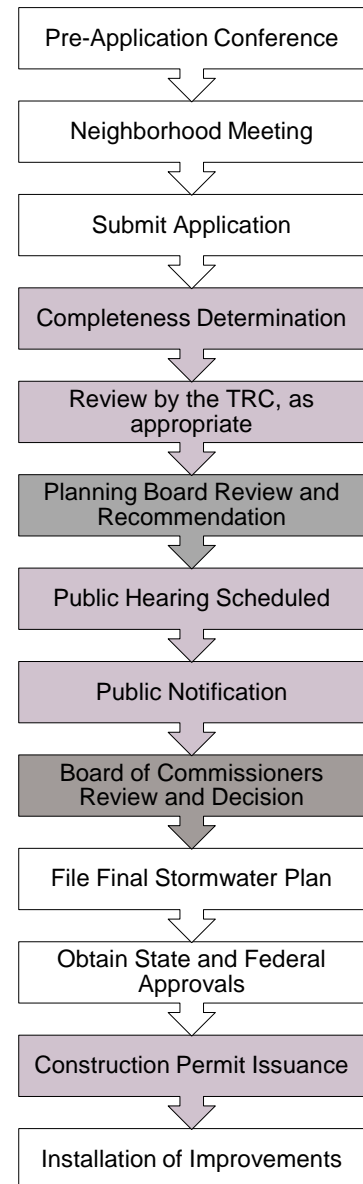
##### 2. Neighborhood Meeting

Applicable (see Section <>, Neighborhood Meeting).

##### 3. Application Submittal

- a. Applicable (see Section <>, Application Submittal).
- b. A preliminary plat shall be prepared by a licensed professional surveyor, registered professional landscape architect, or licensed professional engineer.
- c. A preliminary plat application shall include either a conceptual or final stormwater management plan prepared in accordance with the standards in Section <>, Stormwater Management.
- d. Concurrent submittal of a preliminary plat application and a final plat application is prohibited except in cases where

FIGURE <> PRELIMINARY PLAT PROCEDURE



<sup>66</sup> This section replaces the standards for a major subdivision in Sections 151.230 through 151.238 of the current ordinance. These draft standards are consistent with the details specified on Pages 40 and 41 of the Evaluation Report. The current preliminary plat review process is proposed for revision in the following key ways:

- Conversion of the sketch plan process into a pre-application conference;
- Revision of the current provisions to allow filing of a conceptual stormwater plan (instead of a fully-engineered plan) with the preliminary plat and filing of a fully-engineered stormwater plan prior to issuance of a construction permit to install infrastructure (after approval of a preliminary plat);
- Delay of the requirement to file State and Federal permit applications (but not County Health Department on-site wastewater certification (if required)), until after approval of a preliminary plat but prior to approval of a construction permit; and
- Removal of the special use permit requirement for subdivisions (since this introduces quasi-judicial procedures and decision-making requirements into an otherwise ministerial procedure).

These changes are proposed to simplify the subdivision review process and make it more efficient while at the same time ensuring sufficient public participation at the early stages of the subdivision planning process (when input is easiest to accommodate). The process delays significant expenditure for engineering and State or Federal permits until after a preliminary plat is approved, creating more predictability. The various standards (including certification statements) for preliminary plats are relocated to Article 151.6: Subdivision Requirements. In addition to these changes, we suggest the submittal requirements in Section 151.233 be relocated to an outside manual or user's guide. Section 151.234 related to certifications is proposed for relocation to Article 151.6.

## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.21 Preliminary Plat65F

there are no extensions of public right-of-way or public utilities.

d.e. In cases where a preliminary plat is part of a larger phased development, the application materials shall illustrate all various stages and phases of the development as well as the schedule for completion of public and private improvements associated with the development.

#### 4. Staff Review and Action

- a. Applicable (see Section <>, Staff Review and Action).
- b. The UDO Administrator shall review the application and may submit it to the Technical Review Committee staff or to other outside agencies, as appropriate, for further technical review.
- c. The UDO Administrator shall prepare a staff report and provide a recommendation in accordance with Section <>, Preliminary Plat Review Standards.

#### 5. Review by Planning Board

- a. Applicable (see Section <>, Review by Review Authority, and Section <>, Public Meetings and Hearings).
- b. The Planning Board, following review during a public meeting, shall make a recommendation on an application in accordance with Section <>, Preliminary Plat Review Standards.

#### 6. Public Notice

Applicable (see Section <>, Public Notice).

#### 7. Review and Decision by Board of Commissioners

- a. Applicable (see Section <>, Action by Review Body).
- b. The Board of Commissioners, after the conclusion of a legislative public hearing, shall review and decide the application in accordance with Section <>, Preliminary Plat Review Standards. The decision shall be the one of the following:
  1. Approval of the preliminary plat as proposed;
  2. Approval of a revised preliminary plat; or
  3. Denial of the preliminary plat.

#### 8. Approval to Proceed

Following approval of a preliminary plat by the Board of Commissioners, approval of the final stormwater plan, and issuance of all required state and federal approvals, the County will issue an approval to proceed with authorizes an applicant proceed with land-disturbing activities.

### D. Preliminary Plat Review Standards

1. An application for a preliminary plat shall be approved, provided:
  - a. The preliminary plat is prepared and sealed by a licensed professional land surveyor, registered professional landscape architect, or licensed professional engineer;
  - b. The preliminary plat complies with the applicable standards in Section 47-30 of the North Carolina General Statutes;
  - c. The preliminary plat includes all required certifications in Section <>, Certifications;
  - d. All lots have been certified by Albemarle Regional Health Services as capable of accommodating the wastewater generated from the proposed use, in cases when the lot(s) is not served by a centralized wastewater system;
  - e. The preliminary plat is in substantial conformance with all applicable requirements in Article 151.6: Subdivision Requirements;
  - f. The minor subdivision complies with all standards and conditions of any applicable permits and development approvals;
  - g. All lots shall be served by a NCDOT-maintained roadway or a right-of-way constructed to and maintained in accordance with NCDOT standards;
  - h. The name of the subdivision shall not duplicate or be similar to the name of an existing subdivision in Camden County or Pasquotank County;
  - i. In cases where land subject to a preliminary plat is located within an AEC, approved preliminary plats shall bear a certification from the County certifying compliance with all AEC requirements; and
  - j. The preliminary plat complies with all other applicable requirements in this Ordinance and the County Code of Ordinances.
2. Preliminary plats of land located within the special flood hazard area shall comply with the standards in Section <>, Special Flood Hazard Area Overlay~~Special Flood Hazard Overlay~~, and include the following statement:

*"Use of land within a floodplain or a special flood hazard area is substantially restricted by Camden County."*
3. If the minor subdivision is required to provide a connection to a public water supply system, the plat shall include the following statement:

*"The developer is required to install all water lines and related improvements."*

## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.21 Preliminary Plat65F

4. In cases where land subject to a preliminary plat is located within an AEC approved preliminary plats shall bear a certification from the County certifying compliance with all AEC requirements.

#### E. Delay of Approval Authorized

The Board of Commissioners may delay approval of a preliminary plat on land where timber is harvested in advance of an application for either of the following time periods:

1. Up to three years after completion of timber harvesting, if the harvest results in the removal of all, or substantially all, of the trees that would be protected by **Section <>, Tree Protection**; or
2. Up to five years after completion of timber harvesting, if the harvest results in the removal of all, or substantially all, of the trees that would be protected by **Section <>, Tree Protection**, if the harvest was conducted as a willful violation of these standards.

#### F. Conditions of Approval

Applicable (see **Section <>, Conditions of Approval**).

#### G. Effect

1. Approval of a preliminary plat authorizes the submittal of final stormwater plans, construction drawings, and/or a final plat.
2. Approval of a preliminary plat shall not constitute the approval for recording a subdivision with the Camden County Register of Deeds, or approval for the conveyance of lots.

#### H. Amendment

Amendment of a preliminary plat approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

#### I. Expiration

##### 1. Generally

An approved preliminary plat shall be valid for two years from the date of approval.

##### 2. Extension

- a. An applicant may request an extension of a preliminary plat approval in writing to the UDO Administrator at least 30 days prior to expiration.
- b. Extension requests shall be reviewed and decided by the Board of Commissioners.
- c. A preliminary plat may be extended once for a maximum duration of one year.

#### J. Appeal

1. Appeal of a decision on a preliminary plat shall be subject to review by the District 1 Superior Court by proceedings in the nature of certiorari and in accordance with Section 160A-393 of the North Carolina General Statutes.
2. Petitions for review must be filed with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.



**2.3.22 SIGN PERMIT**

**A. Purpose and Intent**

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

**B. Applicability**

All signs, including temporary signs, but excluding signs exempted from obtaining sign permits in Section <>, Signage, shall obtain a sign permit in accordance with this section before being erected, replaced, relocated, or altered.

**C. Sign Permit Procedure**

**1. Pre-Application Conference**

Optional (see Section <>, Pre-Application Conference).

**2. Application Submittal**

Applicable (see Section <>, Application Submittal).

**3. Staff Review and Action**

a. Applicable (see Section <>, Staff Review and Action).

b. The UDO Administrator shall review and decide the application in accordance with Section <>, Sign Permit Review Standards.

**D. Sign Permit Review Standards**

A sign permit shall be approved on a decision the application complies with:

1. The standards in Section <>, Signage;
2. The State Building Code;
3. All standards or conditions of any prior applicable permits and developments approvals; and
4. All other applicable requirements of this Ordinance and in the County Code of Ordinances.

**E. Conditions of Approval**

Applicable (see Section <>, Conditions of Approval).

**F. Effect**

Applicable (see Section <>, Effect).

**G. Amendment**

Amendment of a sign permit may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

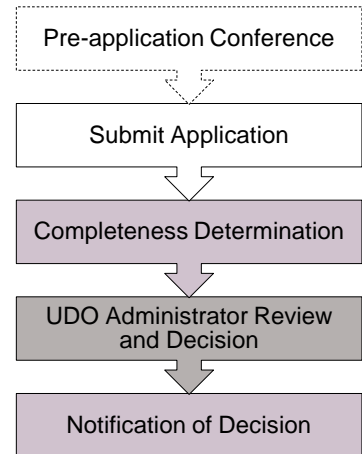
**H. Expiration**

If the work authorized by a sign permit is not commenced within six months from the date of issuance, the permit shall become null and void.

**I. Appeal**

Appeal of a decision on a sign permit shall be reviewed and decided by the BOA in the nature of certiorari and in accordance with Section <>, Appeal.

**FIGURE <> SIGN PERMIT PROCEDURE**





ARTICLE 151.2 PROCEDURES

Section 2.3 Specific Review Procedures

2.3.23 Special Use Permit

2.3.23 SPECIAL USE PERMIT

A. Applicability

Applications for uses identified as requiring a special use in Table <>, Principal Use Table, shall be reviewed in accordance with the procedures and standards of this section. A special use is a use that may be appropriate in a zoning district, but because of its nature, extent, or external effects, it requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings.

B. Special Use Procedure

1. Pre-Application Conference

Applicable (see Section <>, Pre-Application Conference).

2. Neighborhood Meeting

Optional (see Section <>, Neighborhood Meeting).

3. Application Submittal

- a. Applicable (see Section <>, Application Submittal).
b. An application shall be submitted only by the landowner(s), and shall include a site plan.

4. Staff Review and Action

- a. Applicable (see Section <>, Staff Review and Action).
b. The UDO Administrator shall review the application, prepare a staff report, and provide a recommendation in accordance with Section <>, Special Use Review Standards.

5. Public Notice

Applicable (see Section <>, Public Notice).

6. Review and Decision by Board of Commissioners

- a. Applicable (see Section <>, Review and Action by Decision-Making Body and Section <>, Public Hearing).
b. Following the conclusion of a quasi-judicial public hearing, the Board of Commissioners shall review and decide the application in accordance with Section <>, Special Use Review Standards. The decision shall be the one of the following:
1. Approval of the special use as proposed;
2. Approval of a revised special use; or
3. Denial of the special use.
c. Any conditions of approval shall meet or exceed the minimum requirements of this Ordinance.

C. Special Use Review Standards

- A special use shall be approved upon a determination that the special use:
1. Will not materially endanger the public health or safety if located where proposed;
2. Complies with all required standards, conditions, and specifications of this Ordinance, including Article 151.4: Use Regulations;
3. Will not substantially injure the value of the abutting land, or the special use is a public necessity;
4. Will be in harmony with the area in which it is to be located;
5. Is in general conformity with the County's adopted policy guidance; and
6. Will not exceed the County's ability to provide adequate public facilities (e.g., schools, fire protection, rescue, and law enforcement).

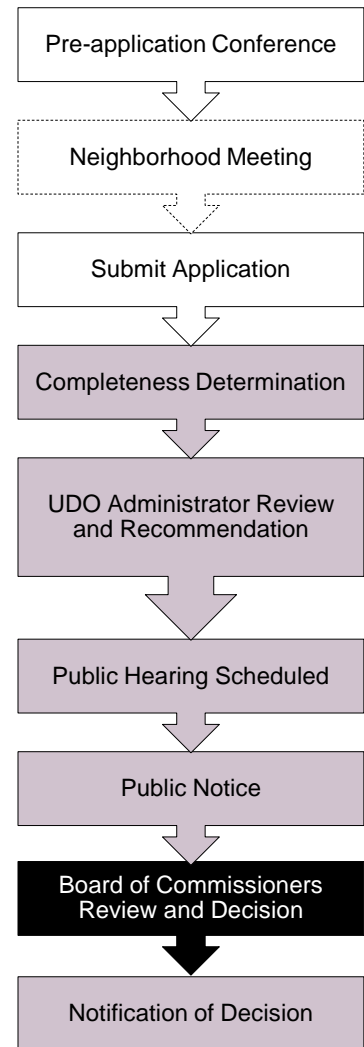
D. Conditions of Approval

- 1. Applicable (see Section <>, Conditions of Approval).
2. The Board of Commissioners may apply conditions limiting the permit to a specified duration or may place limits on the availability of proposed residential dwelling units to coincide with the provision or maintenance of adequate public facilities.

E. Effect

- 1. Applicable (see Section <>, Effect).

FIGURE <> SPECIAL USE PERMIT PROCEDURE



## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.23 Special Use Permit

2. A special use and the associated site plan approval are perpetually binding and run with the land, unless amended.
3. An action invalidating a special use condition of approval (such as exceeding maximum allowable intensity or hours of operation limitation) shall render the special use permit null and void.

#### F. Amendment

Applicable (see [Section <>, Amendment](#)).

#### G. State and Federal Requirements

Special uses shall meet all applicable federal and state requirements for location and operation. Failure to maintain compliance with those requirements may result in the revocation of the special use.

#### H. Expiration

##### 1. Replacement

If a special use is replaced by a use otherwise permitted by right in the zoning district, the special use permit approval is deemed abandoned and the special use permit approval is null and void.

##### 2. Failure to Complete Construction

Unless otherwise stated in the special use permit approval, a special use permit shall expire and become null and void two years after the date of issuance if:

- a. The authorized use has not commenced;
- b. No substantial construction activity has taken place; or
- c. Construction activities have started but the value of all construction activity is less than five percent of the estimated total cost of construction.

##### 3. Extension

- a. An applicant may request an extension of a special use permit approval in writing to the UDO Administrator at least 30 days prior to expiration.
- b. Extension requests shall be reviewed and decided by the Board of Commissioners.
- c. Up to one extension for a maximum period of one year may be granted if:
  1. The applicant has proceeded towards completion of construction in good faith and with due diligence; and
  2. Conditions have not changed to the extent that a new application is warranted in the sole discretion of the Board of Commissioners.

#### I. Appeal

1. Appeal of a decision on a special use permit shall be subject to review by the District 1 Superior Court by proceedings in the nature of certiorari and in accordance with Section 160A-393 of the North Carolina General Statutes.
2. Petitions for review must be filed with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

ARTICLE 151.2 PROCEDURES

Section 2.3 Specific Review Procedures

2.3.24 Transfer Plat66F

2.3.24 TRANSFER PLAT<sup>67</sup>

A. Purpose and Intent

The purpose for this section is to establish a procedure for the review of requests to subdivide land for the purpose of creating an additional lot for conveyance to an immediate family member.

B. Applicability

The standards in this section shall apply to the conveyance of a single lot from one family member to another immediate family member.

C. Transfer Plat Procedure

1. Application Submittal

- a. Applicable (see Section <>, Application Submittal).
- b. Applications for a transfer plat shall include an attestation that the purpose for the subdivision is solely for the conveyance of lots to an immediate family member, and that conveyance of a lot in a transfer plat to a non-family member is a violation of this Ordinance.

2. Staff Review and Action

- a. Applicable (see Section <>, Staff Review and Action).
- b. The UDO Administrator shall review the application and may submit it to other County staff or to other outside agencies, as appropriate, for further technical review.
- c. Following receipt of comments, if any, the UDO Administrator shall review and decide the application in accordance with Section <>, Transfer Plat Review Standards.

3. Recordation

Once a transfer plat is approved, a signed statement by the UDO Administrator shall be entered on the face of the plat. The transfer plat may not be recorded without this certification. Failure to record the transfer plat in accordance with Section <>, Expiration, shall render the transfer plat null and void.

D. Transfer Plat Review Standards

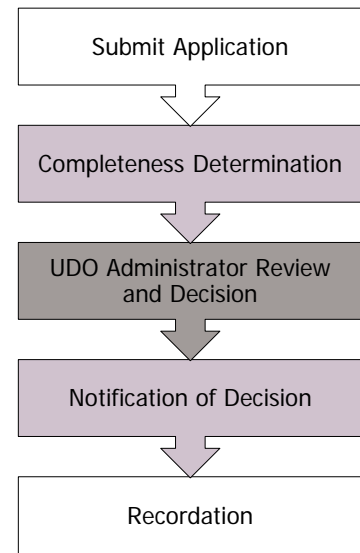
A transfer plat shall be approved if the application complies with the following:

- 1. All lots created from the original parent tract shall comply with the minimum dimensional standards for the district where located;
- 2. Each lot created as part of a transfer plat shall be at least one acre of buildable land in area;
- 3. No more than one lot shall be created from a parent tract per year;
- 4. The lot shall front a public street, an access easement recorded prior to January 1, 2006, or shall be served by an accessway of at least 45 feet in width that provides ingress and egress to a public street;
- 5. In no instance shall a private street serving the lot also serve more than four additional lots;
- 6. Principal uses shall be limited to single-family detached dwellings and customary accessory uses.
- 7. The lot has been certified by Albemarle Regional Health Services as capable of accommodating the wastewater generated from the proposed use, in cases when the lot is not served by a centralized wastewater system;
- 8. The transfer plat complies with all standards and conditions of any applicable permits and development approvals; ~~and~~
- 9. ~~The transfer plat complies with all other applicable requirements in this Ordinance and the County Code of Ordinances; and-~~
- 9-10. The subdivision complies with all the applicable standards in Section <>, Special Flood Hazard Area Overlay, if located in the floodplain or a floodway.

E. Effect

- 1. Approval of a transfer plat allows the conveyance of a lot to an immediate family member.
- 2. Land subject to a transfer plat shall be titled under the immediate family member's name for a period of at least five years or until the immediate family members reaches the age of 18 (whichever is greater).<sup>68</sup>

FIGURE <> TRANSFER PLAT PROCEDURE



<sup>67</sup> This section is proposed to include a new procedure for review of a "transfer plat" or family subdivision (as described in Section 151.230(e) of the current ordinance).

<sup>68</sup> NOTE TO STAFF: This standard is carried forward from the current ordinance. What happens if the land is resold to a non-family member before the five year term elapses?

## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.24 Transfer Plat66F

3. Building permits may be issued following recordation of the transfer plat.

**F. Amendment**

Amendment of a transfer plat may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

**G. Expiration**

A transfer plat shall be null and void unless it is recorded in the office of the Camden County Register of Deeds within 60 days of approval.

**H. Appeal**

Appeal of a decision on a transfer plat shall be reviewed and decided by the BOA in the nature of certiorari and in accordance with **Section <>, Appeal.**

ARTICLE 151.2 PROCEDURES

Section 2.3 Specific Review Procedures

2.3.25 Temporary Use Permit

2.3.25 TEMPORARY USE PERMIT

A. Purpose and Intent

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

B. Applicability

The provisions of this section shall apply to all proposed temporary uses, temporary structures, and special events set forth in Section <>, Temporary Use Standards, but shall not be applied to applications for temporary signage.

C. Temporary Use Permit Procedure

1. Application Submittal

Applicable (see Section <>, Application Submittal).

2. Staff Review and Action

a. Applicable (see Section <>, Staff Review and Action).

b. The UDO Administrator shall review and decide the application in accordance with Section <>, Temporary Use Permit Review Standards.

D. Temporary Use Permit Review Standards

A temporary use permit shall be approved if it complies with:

1. The standards in Section <>, Temporary Use Standards;
2. The State Building Code;
3. The applicable requirements of Albemarle Regional Health Services, including all improvement permit requirements;
4. All standards or conditions of any prior, applicable permits and development approvals; and
5. All other applicable requirements of this Ordinance, the County Code of Ordinances, State law, and federal law.

E. Effect

Applicable (see Section <>, Effect).

F. Amendment

Applicable (see Section <>, Amendment).

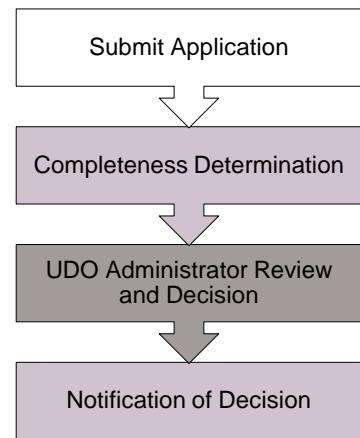
G. Expiration

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

H. Appeal

Appeal of a decision on a temporary use permit shall be reviewed and decided by the BOA in the nature of certiorari and in accordance with Section <>, Appeal.

FIGURE <> TEMPORARY USE PERMIT PROCEDURE



ARTICLE 151.2 PROCEDURES

Section 2.3 Specific Review Procedures

2.3.26 UDO Text Amendment68F

2.3.26 UDO TEXT AMENDMENT<sup>69</sup>

A. Purpose and Intent

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

B. Applicability

The standards and requirements of this section shall apply to applications to revise the text of this Ordinance.

C. Text Amendment Procedure

1. Pre-Application Conference

Applicable (see Section <>, Pre-Application Conference).

2. Application Submittal

- a. Applicable (see Section <>, Application Submittal).
b. An application for a text amendment to this Ordinance may be filed by anyone.

3. Staff Review and Action

- a. Applicable (see Section <>, Staff Review and Action).
b. The UDO Administrator shall prepare a staff report and provide a recommendation in accordance with Section <>, Text Amendment Review Standards.

4. Review by Planning Board

- a. Applicable (see Section <>, Review by Planning Board, and Section <>, Public Meetings and Hearings).
b. The Planning Board, following review during a public meeting, shall make a recommendation on an application in accordance with Section <>, Text Amendment Review Standards.
c. The Planning Board shall comment on whether or not the text amendment is consistent with the County's adopted policy guidance.

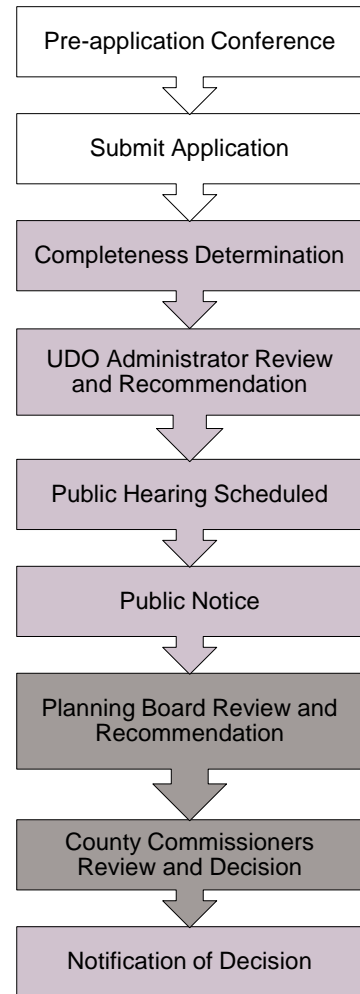
5. Public Notice

Applicable (see Section <>, Public Notice).

6. Review and Decision by Board of Commissioners

- a. Applicable (see Section <>, Action by Decision-Making Body and Section <>, Public Meetings and Hearings).
b. The Board of Commissioners, after the conclusion of a legislative public hearing, shall decide the application in accordance with Section <>, Text Amendment Review Standards.
c. The decision shall be one of the following:
1. Adoption of the text amendment as proposed;
2. Adoption of a revised text amendment;
3. Denial of the text amendment; or
4. Remand of the text amendment application to the Planning Board for further consideration.
d. In making its decision, the Board of Commissioners shall adopt a written statement including each of the following:
1. Whether the text amendment application is approved, denied, or remanded; and
2. The degree to which the text amendment application is or is not consistent with the County's adopted policy guidance; and
3. The ways in which the text amendment application is or is not consistent with the County's adopted policy guidance; and
4. Whether approval of the text amendment application also amends or does not amend the County's adopted policy guidance; and

FIGURE <> UDO TEXT AMENDMENT PROCEDURE



69 This section sets out the procedure for amendment to this Ordinance and builds on the standards in Section 151-580 through 151.586 of the current ordinance except that it separates the procedures for amendments of the text from amendments of the official zoning map. Standard review procedures like voting and public notice have been relocated to Section 2.2 of this draft Ordinance. There are also new review criteria that build on those in Section 151.585 of the current ordinance and these provisions have been revised to comply with Session Law 2017-10 pertaining to required consistency statements with the County's adopted policy guidance.

## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.26 UDO Text Amendment68F

5. If the adopted policy guidance is amended as part of the application approval, a description of the change in conditions to meet the development needs of the County that were taken into account as part of the approval; and
6. An explanation of why the action taken by the Board of Commissioners is reasonable; and
7. An explanation of why the action taken by the Board of Commissioners is in the public interest.

#### D. Text Amendment Review Standards

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

1. Is consistent with the County's adopted policy guidance;
2. Is not in conflict with any provision of this Ordinance or the County Code of Ordinances;
3. Is required by changed conditions;
4. Addresses a demonstrated community need;
5. Addresses an unforeseen matter not present when the Ordinance was adopted;
6. Is consistent with the purpose and intent of the zoning districts in this Ordinance, or would improve compatibility among uses and ensure efficient development within the County;
7. Would result in a logical and orderly development pattern;
8. Addresses other factors determined to be relevant by the Board of Commissioners; and
9. Would not result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, and the natural functioning of the environment.

#### E. Effect

Applicable (see [Section <>, Effect](#)).

#### F. Amendment

Amendment of a text amendment approval may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

#### G. Appeal

1. Appeal of a decision on a UDO text amendment shall be subject to review by the District 1 Superior Court.
2. Petitions for review must be filed with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.



ARTICLE 151.2 PROCEDURES

Section 2.3 Specific Review Procedures

2.3.27 Variance69F

2.3.27 VARIANCE<sup>70</sup>

A. Purpose and Intent

The purpose of this section is to allow certain deviations from the dimensional standards of this Ordinance (such as height, setback, lot coverage, or similar numerical standards) when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner’s control (such as topographical conditions, narrowness, shallowness, or shape of a specific parcel of land), a literal application of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest. This section also includes standards for variance from the County’s special flood hazard area standards in Section <>, Floodplain Management.

B. Applicability

- 1. Development that would otherwise be subject to undue and unique hardship from the applications of the standards in this Ordinance may seek relief from the standards in accordance with this section.
- 2. No variance may be sought that increases development density (e.g., units per acre) beyond that allowed in a base zoning district, or that would permit a use not allowed in a zoning district.

C. Variance Procedure

1. Pre-Application Conference

Applicable (see Section <>, Pre-Application Conference).

2. Neighborhood Meeting

Optional (see Section <>, Neighborhood Meeting).

3. Application Submittal

Applicable (see Section <>, Application Submittal).

4. Staff Review and Action

- a. Applicable (see Section <>, Staff Review and Action).
- b. The UDO Administrator shall review the application, prepare a staff report, and provide a recommendation in accordance with Section <>, Variance Review Standards.

5. Public Notice

Applicable (see Section <>, Public Notice).

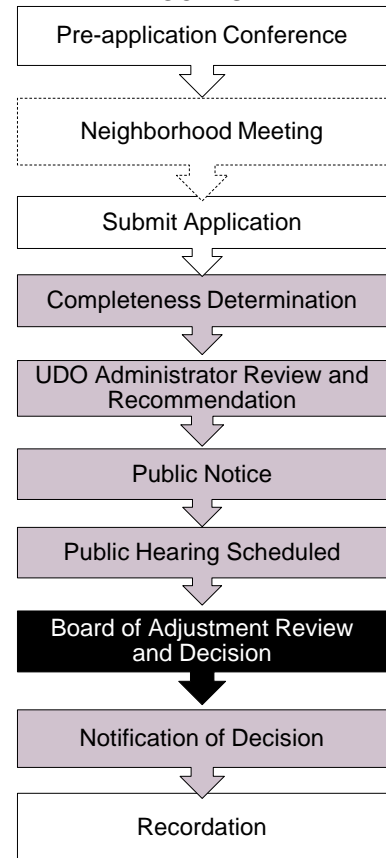
6. Board of Adjustment Review and Decision

- a. Applicable (see Section <>, Action by Review Authority, and Section <>, Quasi-Judicial Public Hearing Procedures).
- b. The BOA, after the conclusion of a quasi-judicial public hearing, shall decide the application for a variance.
- c. The decision shall be based on the evidence in the record, as supplemented by the arguments presented at the quasi-judicial hearing, and the standards in Section <>, Variance Review Standards.
- d. The decision shall be one of the following:
  - 1. Approval of the variance as proposed;
  - 2. Approval of the variance with revisions; or
  - 3. Denial of the variance.
- e. Each decision shall be made in writing and reflect the BOA’s determination of contested facts and their application to the standards in this Ordinance.
- f. The written decision shall be signed by the Chair or other duly authorized member of the BOA.
- g. The decision of the BOA shall be effective upon the filing of the written decision.

7. Notification of Decision

The decision of the BOA shall be delivered by personal service, electronic mail, or by first-class mail to the applicant, the landowner, and to any person who has submitted a written request for a copy prior to the date the decision becomes

FIGURE <> VARIANCE PROCEDURE



<sup>70</sup> NOTE This procedure consolidates the provisions for regular variance requests as well as requests for a variance from the special flood hazard overlay provisions in Section 151.383(G), Variance Procedures, from the current ordinance.

## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.27 Variance69F

effective. The person providing notification of decision shall certify that proper notification has been made.

#### 8. Recordation

- a. If a variance application is approved, the notice of decision shall be recorded by the applicant in the office of the Camden County Register of Deeds.
- b. Failure to record the variance within 30 days of approval, shall render the variance null and void.

#### D. Variance Review Standards

##### 1. Zoning Variance Standards

###### a. Required Findings

A zoning variance shall be approved on a finding the applicant demonstrates all of the following:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of the variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

###### b. Other Considerations

In addition to the making the required findings in subsection (a) above, the BOA may also consider the following:

1. The variance approval is the minimum necessary to make possible the reasonable use of the land, building, or structure;
2. All property taxes on the land subject to the variance application have been paid in full;
3. None of the following may be used as the basis for approving a variance:
  - A. Neither the nonconforming use of lands, buildings, or structures in the same zoning district, or the permitted use of lands, buildings, or structures in other zoning districts, or personal circumstances;
  - B. A request for a particular use that is expressly, or by inference, prohibited in the zoning district;
  - C. Hardships resulting from factors other than application of the relevant standards of this Ordinance;
  - D. The fact that land or a structure may be utilized more profitably or be more marketable with a variance;
  - E. The citing of other conforming or nonconforming uses of land or structures in the same or other zoning districts; or
  - F. Financial hardship.

##### 2. Special Flood Hazard Area Variance Standards

In addition to the standards for a zoning variance, variances from the special flood hazard area standards in this Ordinance shall be reviewed and decided in accordance with the following:

###### a. Required Findings

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

1. There is a good and sufficient cause to grant the variance;
2. The variance is the minimum necessary to provide relief;
3. Failure to grant the variance would result in exceptional hardship to the landowner; and
4. Granting the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with this Ordinance.

###### b. Other Considerations

In addition to making the required findings in subsection (a) above, the BOA may also consider the following:

1. The variance is the minimum necessary, considering the flood hazard, to afford relief;
2. Approval of the variance will not render the building in violation of applicable federal, state, or local requirements;
3. Approval of the variance will not result in any increase in flood levels within any designated floodway or non-encroachment area during the base flood discharge;

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#### 2.3.27 Variance69F

4. The variance is issued prior to any other prerequisite permit or development approvals;
- ~~5. All of the following factors shall be considered by the BOA if an application for a flood damage prevention variance is denied:~~
- ~~A.5.~~ The danger that materials may be swept onto other lands and injure others;
- ~~B.6.~~ The danger to life and land due to flooding or erosion damage;
- ~~C.7.~~ The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual landowner;
- ~~D.8.~~ The importance of the services provided by the proposed facility to the community;
- ~~E.9.~~ The necessity to the facility of a waterfront location as a functionally-dependent facility;
- ~~F.10.~~ The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- ~~G.11.~~ The compatibility of the proposed use with existing and anticipated development;
- ~~H.12.~~ The relationship of the proposed use to the County's adopted policy guidance and the County's floodplain management program;
- ~~I.13.~~ The safety of access to the use in times of flood for ordinary emergency vehicles;
- ~~J.14.~~ The expected height, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- ~~K.15.~~ The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

**c. Historic Sites or Structures**

Reconstruction or rehabilitation of structures listed on the National Register of Historic Places or the State Inventory of Historic Places may occur in a special flood hazard area without need for obtaining a variance in accordance with this subsection.

**E. Insufficient Grounds for Approving Variances**

The following factors shall not constitute sufficient grounds for approval of any variance:

1. A request for a particular use that is expressly, or by inference, prohibited in the zoning district;
2. Hardships resulting from factors other than application of requirements of this Ordinance;
3. The fact that land or a structure may be utilized more profitably or be more marketable with a variance; or
4. The citing of other nonconforming or conforming uses of land or structures in the same or other zoning districts.

**F. Conditions of Approval**

In granting a variance, the BOA may prescribe conditions of approval to ensure compliance with the standards of this section, and to assure that the use of the land to which the variance applies will be compatible with surrounding lands and will not alter the essential character of the neighborhood.

1. A variance granted subject to a condition of approval shall be permitted as long as there is compliance with the condition.
2. Violation of a condition of approval shall be deemed a violation of this Ordinance.
3. If a violation or invalidation of a condition of approval occurs, the UDO Administrator may revoke the certificate of occupancy for the development subject to the variance.

**G. Effect**

**1. General**

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

**2. Notification Regarding Flood Insurance Costs**

- a. An applicant for whom a special flood hazard area variance is approved shall be provided written notice by the UDO Administrator specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is built. The notice shall inform the applicant about the risks to life and property from construction below the BFE and that issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance.
- b. The notification shall be maintained by the UDO Administrator with the record of the ~~flood~~-special flood hazard area variance action.

**3. Records**

Upon request, the UDO Administrator shall report all special flood hazard area variances approved in accordance with this section to the Federal Emergency Management Agency and the State of North Carolina.

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#### 2.3.27 Variance69F

#### H. Amendment

Amendment of a variance may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

#### I. Expiration

1. If the BOA does not include a time period by which development subject to a zoning variance or a special flood hazard area variance expires, development shall commence within 12 months of the date of issuance of the variance or the variance shall expire and become null and void.
2. A variance shall expire and become invalid if the property owner changes development on the site such that the extraordinary and exceptional conditions that warranted the hardship and variance no longer do so.

#### J. Appeal

1. Appeal of a decision on a variance shall be subject to review by the District 1 Superior Court by proceedings in the nature of certiorari and in accordance with Section 160A-393 of the North Carolina General Statutes.
2. Petitions for review must be filed with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

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2.3.28 Vested Rights Determination<sup>71</sup>

2.3.28 VESTED RIGHTS DETERMINATION<sup>71</sup>

A. Purpose and Intent

The purpose for this section is to establish a clear procedure for an applicant to request vesting or protection from changes in this Ordinance that take place after approval of the application but prior to completion of an approved site-specific development plan.

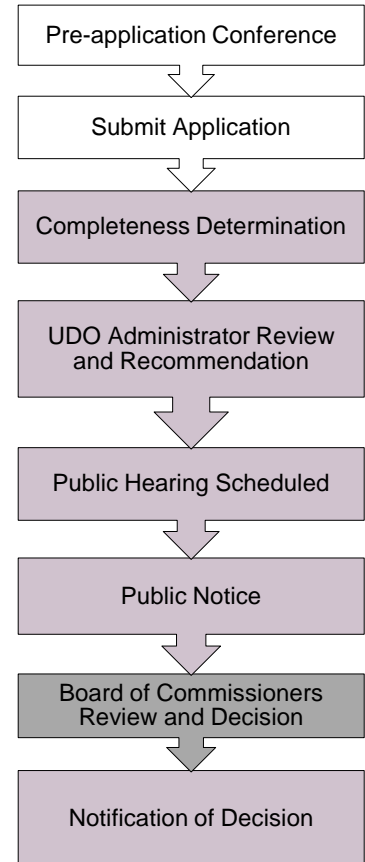
B. Applicability

1. A vested right may be established, in accordance with Section 153A-344.1 or Section 160A-385.1 of the North Carolina General Statutes, and this section.
2. A vested rights determination shall be limited to development included in a site specific development plan. For the purposes of this section, a site specific development plan may be one of the following development approvals:
  - a. Special use permits;
  - b. Preliminary plats;
  - c. Planned developments; or
  - d. Major site plans for nonresidential development.
3. An application for a vested rights determination shall be processed concurrently or after the approval of a special use permit, preliminary plat, planned development, or major site plan for nonresidential development.

C. Vested Rights Determination Procedure

1. **Pre-Application Conference**  
Required (see Section <>, Pre-Application Conference).
2. **Application Submittal**
  - a. Applicable (see Section <>, Application Submittal).
  - b. Applications may be initiated by the landowner or any person who may submit an application in accordance with Section <>, Authority to File Applications.
3. **Staff Review**
  - a. Applicable (see Section <>, Staff Review and Action).
  - b. The UDO Administrator shall review the application, prepare a staff report, and provide a recommendation in accordance with Section <>, Vested Rights Determination Review Standards.
4. **Public Notice**  
Applicable (See Section <>, Public Notice).
5. **Board of Commissioners Review and Decision**
  - a. Applicable (see Section <>, Action by Review Authority, and Section <>, Public Meetings and Hearings).
  - b. The Board of Commissioners, after the conclusion of a legislative public hearing, shall decide the application in accordance with Section <>, Vested Rights Determination Review Standards.
  - c. The decision shall be one of the following:
    1. Approval of the vested rights determination as proposed;
    2. Approval of a revised vested rights determination; or
    3. Denial of vested rights determination.

FIGURE <> VESTED RIGHTS DETERMINATION PROCEDURE



D. Vested Rights Determination Review Standards

A vested rights determination shall be approved if:

1. The vested rights determination is for an approved site-specific development plan;
2. The development is valid and unexpired; and
3. Any required variances have been obtained.

E. Effect

1. A vested rights determination shall be approved prior to issuance of a building permit.
2. The establishment of a vested right shall not preclude the application of overlay zoning district provisions that impose additional requirements but do not affect the allowable type and intensity of use, or through

<sup>71</sup> This is a new procedure proposed to replace the standards in Section 151q.513 of the current ordinance.

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#### 2.3.28 Vested Rights Determination70F

ordinances that are general in nature and are applicable to all property subject to land use regulation by the County, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes.

#### F. Amendment

Amendment of vested rights determination may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

#### F. Expiration

1. A vested right determination shall expire and become null and void:
  - a. At the end of the applicable vesting period; or
  - b. If a building permit application for the development subject to the determination is not submitted within two years of the approval of the vested rights determination associated with a special use permit, preliminary plat, or major site plan, or five years of the approval of a vested rights determination associated with a planned development; or
  - c. Upon a finding by the Board of Commissioners after notice and a public hearing, that:
    1. Natural or man-made hazards on or in the immediate vicinity of the land, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated;
    2. The landowner or landowner's representative intentionally supplied inaccurate information or made material misrepresentations which affected the approval of the site specific development plan;
    3. The landowner failed to comply with any condition imposed upon the establishment of the site specific development plan or vested rights determination; or
  - d. Upon payment to the affected landowner of compensation for all costs, expenses, and other losses incurred by the landowner, including but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant fees incurred after approval of the determination by the County, together with interest at the legal rate until paid. Compensation shall not include any diminution in the value of the land which is caused by such action; or
  - e. With the written consent of the affected landowner.
2. Upon enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the site-specific development plan, the Board of Commissioners may modify the affected provisions of the determination by ordinance, if after conducting a hearing, it finds the changed conditions created by the change in the State or federal law have a fundamental effect on the site specific development plan.

#### G. Appeal

1. Appeal of a decision on a vested rights determination shall be subject to review by the District 1 Superior Court by proceedings in the nature of certiorari and in accordance with Section 160A-393 of the North Carolina General Statutes.
2. Petitions for review must be filed with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.



# ARTICLE 151.2 PROCEDURES

## Section 2.3 Specific Review Procedures

### 2.3.29 Zoning Compliance Permit<sup>72</sup>

#### 2.3.29 ZONING COMPLIANCE PERMIT<sup>72</sup>

**A. Purpose and Intent**

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

**B. Applicability**

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

**C. Zoning Compliance Permit Procedure**

**1. Pre-Application Conference**

Optional (see Section <>, Pre-Application Conference).

**2. Application Submittal**

Applicable (see Section <>, Application Submittal).

**3. Staff Review and Action**

a. Applicable (see Section 2.3.5, Staff Review and Action).

b. The UDO Administrator shall review and decide the application in accordance with Section <>, Zoning Compliance Permit Review Standards.

**D. Zoning Compliance Permit Review Standards**

A zoning compliance permit shall be approved on a decision the application complies with:

1. All standards or conditions of any prior applicable permits and developments approvals;
2. The applicable requirements of the Albemarle Regional Health Services; and
3. All applicable requirements of this Ordinance and in the County Code of Ordinances.

**E. Conditions of Approval**

Applicable (see Section <>, Conditions of Approval).

**F. Effect**

1. Approval of a zoning compliance permit authorizes an applicant to apply for a building permit, commence construction, or proceed with the approved development.
2. If the zoning compliance permit application is filed concurrently with a building permit application, approval of the zoning compliance permit authorizes the County to complete its review of the building permit application.

**G. Amendment**

Amendment of a zoning compliance permit may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

**H. Expiration**

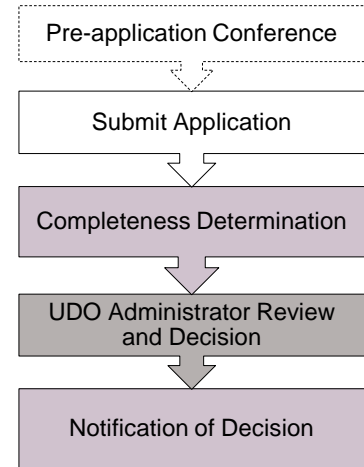
A zoning compliance permit shall expire and become null and void one years after the date of issuance if:

1. The authorized use has not commenced;
2. No substantial construction activity has taken place; or
3. Construction activities have started but the value of all construction activity is less than five percent of the estimated total cost of construction.

**I. Appeal**

Appeal of a decision on a zoning compliance permit shall be reviewed and decided by the BOA in the nature of certiorari and in accordance with Section <>, Appeal.

**FIGURE <> ZONING COMPLIANCE PERMIT PROCEDURE**



<sup>72</sup> This section is proposed to replace Section 151.501 of the current ordinance with a zoning compliance permit. It is unclear if the current zoning permit is required for all forms of development. This proposed procedure serves as the final cross check for ensuring all forms of proposed development comply with the requirements of this Ordinance prior to issuance of a building permit, or instead of a building permit for the forms of development that do not require building permits, such as fences, walls, small accessory structures, or home occupations.



# ARTICLE 151.2 PROCEDURES

## Section 2.3 Specific Review Procedures

### 2.3.30 Zoning Map Amendment<sup>72F</sup>

#### 2.3.30 ZONING MAP AMENDMENT<sup>73</sup>

##### A. Purpose

This section provides a uniform means for reviewing and deciding proposed amendments to the Official Zoning Map (OZM) whenever the public necessity, general welfare, the County's adopted policy guidance, or appropriate land use practices justify or require doing so.

##### B. Zoning Map Amendment Procedure

###### 1. Pre-Application Conference

Applicable (see Section <>, Pre-Application Conference).

###### 2. Neighborhood Meeting

Applicable (see Section <>, Neighborhood Meeting).

###### 3. Application Submittal

a. Applicable (see Section <>, Application Submittal).

b. Applications may be initiated by the Board of Commissioners, the Planning Board, the UDO Administrator, or all landowner(s) of the land in the proposed application.

c. Applicants seeking to file an application for a zoning map amendment affecting land they do not own may request the Board of Commissioners to file the application on their behalf.

d. Except for development where all lots shall be served by a central wastewater system, applications for a zoning map amendment shall include an evaluation from Albemarle Regional Health Services indicating that an on-site wastewater system may be used on each lot allowable under the application.

e. In cases where an applicant seeks to establish or amend a conditional zoning district, all conditions of approval proposed by the applicant, including a mandatory conceptual development plan depicting the proposed development configuration, shall be included in with the zoning map amendment application.

###### 4. Staff Review and Action

a. Applicable (see Section <>, Staff Review and Action).

b. The UDO Administrator shall review the application, prepare a staff report, and provide a recommendation in accordance with Section <>, Zoning Map Amendment Review Standards.

###### 5. Public Notice

Applicable (see Section <>, Public Notice).

###### 6. Review by Planning Board

a. Applicable (see Section <>, Review by Planning Board, and Section <>, Public Meetings and Hearings).

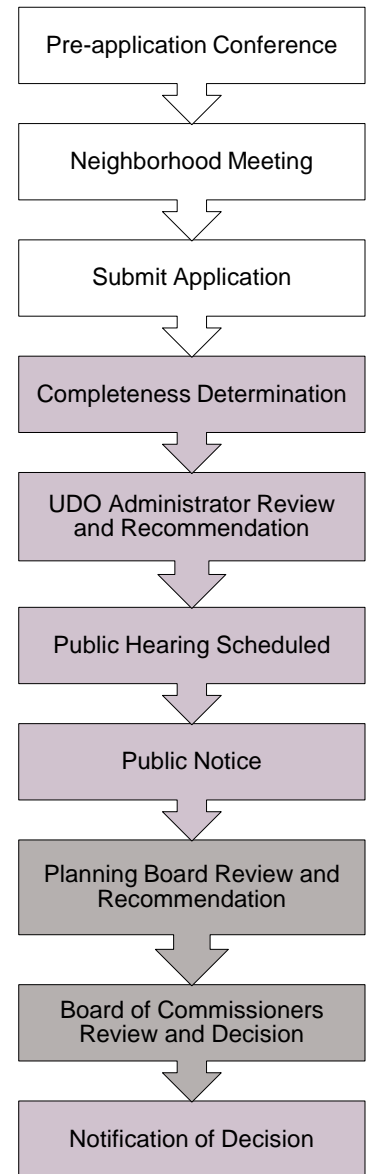
b. The Planning Board, following review during a public meeting, shall make a recommendation on an application in accordance with Section <>, Zoning Map Amendment Review Standards.

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

###### 7. Board of Commissioners Review and Decision

a. Applicable. (See Section <>, Action by Review Authority, and Section <>, Public Meetings and Hearings).

FIGURE <> ZONING MAP AMENDMENT PROCEDURE



<sup>73</sup> This section replaces the amendment-related provisions in Sections 151.580 through 151.586 of the current ordinance. The zoning map amendment process is distinguished from the text amendment process. The map amendment procedure has removed the distinction between major and minor map amendments in Section 151.580 of the current ordinance, and does not carry forward the current limitation on the expansion of non-residential zoning along major arterial streets in Section 151.586 of the current ordinance. This provision is drafted to recognize conditional rezoning requests (though the County may not wish to allow these kinds of applications). This procedure has been amended for compliance with Session Law 2017-18 pertaining to consistency with the adopted policy guidance.

## ARTICLE 151.2 PROCEDURES

### Section 2.3 Specific Review Procedures

#### 2.3.30 Zoning Map Amendment72F

- b. The Board of Commissioners, after the conclusion of a legislative public hearing, shall decide the application in accordance with **Section <>, Zoning Map Amendment Review Standards**.
- c. The decision shall be one of the following:
  - 1. Adoption of the zoning map amendment as proposed;
  - 2. Adoption of the zoning map amendment to a zoning district designation of lesser intensity;
  - 3. Denial of the zoning map amendment; or
  - 4. Remand of the zoning map amendment application to the Planning Board for further consideration.
- d. Unless the range of allowable uses is limited by applicant-proposed conditions associated with the zoning map amendment application, the Board of Commissioners shall not rely upon any representations made by the applicant that if the application is granted, the subject land will be used for only one use or type of uses permitted in the requested zoning district. Rather the Board of Commissioners shall consider the full range of use types allowable in the proposed zoning district designation.
- e. In making its decision, the Board of Commissioners shall adopt a written statement including each of the following:
  - 1. Whether the zoning map amendment application is approved, denied, or remanded; and
  - 2. The degree to which the zoning map amendment is or is not consistent with the County's adopted policy guidance; and
  - 3. The ways in which the zoning map amendment is or is not consistent with the County's adopted policy guidance; and
  - 4. Whether approval of the zoning map amendment amends or does not amend the County's adopted policy guidance; and
  - 5. If the adopted policy guidance is amended as part of the application approval, a description of the change in conditions to meet the development needs of the County that were taken into account as part of the approval; and
  - 6. An explanation of why the action taken by the Board of Commissioners is reasonable; and
  - 7. An explanation of why the action taken by the Board of Commissioners is in the public interest.

#### 8. Designation on Official Zoning Map

The UDO Administrator shall make changes to the OZM promptly after approval of a zoning map amendment application by the Board of Commissioners.

#### C. Zoning Map Amendment Review Standards

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

- 1. Whether the proposed zoning map amendment advances the public health, safety, or welfare;
- 2. Whether and the extent to which the proposed rezoning is appropriate for its proposed location, and is consistent with the purposes, goals, objectives, and policies of the County's adopted policy guidance.
- 3. Whether an approval of the rezoning is reasonable and in the public interest.
- 4. Other factors as the Board of Commissioners may determine to be relevant.

#### D. Conditions of Approval

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

#### E. Effect

Applicable (see **Section <>, Effect**).

#### F. Amendment

Amendment of an approved rezoning may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

#### G. Appeal

- 1. Appeal of a decision on a zoning map shall be subject to review by the District 1 Superior Court.

## ARTICLE 151.2 PROCEDURES

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### Section 2.3 Specific Review Procedures

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#### 2.3.30 Zoning Map Amendment72F

2. Petitions for review must be filed with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

**ARTICLE 151.2 PROCEDURES**

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**Section 2.3 Specific Review Procedures**

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2.3.31 Reserved

**2.3.31 RESERVED**

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