

## CHAPTER 15. DEVELOPMENT PROCESS

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### 15.1 Purpose and Intent

In order to establish an orderly process to develop land within the jurisdiction of the City of Salisbury consistent with standard development practices and terminology it is the purpose of this Chapter to provide a clear and comprehensible development process that is fair and equitable to all interests including the petitioners, affected neighbors, City staff and related agencies, Boards and Commissions, and the City Council. The intent of this Chapter is as follows:

- *To ensure that land, parcels, and lots are appropriately subdivided so that their use and development complies with all applicable requirements of this Ordinance;*
- *To ensure that development is in a manner generally harmonious with surrounding properties and without the endangerment of the health, safety, and general welfare of existing, prospective, or future owners, users, surrounding and adjoining properties, and the public; and*
- *To provide for the adequate and efficient provision of facilities and/or infrastructure, and the dedication of land, rights-of-way, and easements, so as not to burden the fiscal resources of the City. This includes the construction of buildings and utilities, streets and sidewalks, landscaping, recreational open spaces, and other provisions required for the public good of the City of Salisbury.*

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The Salisbury City Council shall adopt from time to time, a schedule of fees and review schedule for application and processing as specified in this Ordinance.

## **15.2 General Applicability**

The provisions of this Chapter shall be applicable to all development activity under the jurisdiction of the City of Salisbury. No building, sign or other structure (except as otherwise provided for in this Ordinance) shall be erected, moved, extended or enlarged or structurally altered, nor shall the use conducted within the building change, nor shall any excavation or filling of any lot for the construction of any building be commenced, nor shall any change in the use of a property be commenced until the Administrator has issued an applicable permit for such work. The issuance of a permit is subject to the required development review process as applicable for the development petition. No grading or infrastructure work may commence prior to the issuance of the appropriate Development approval. Development approvals made pursuant to this Ordinance attach to and run with the land.

Applications for development approvals may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the one of these persons. An easement holder may also apply for development approval for such development as is authorized by the easement.

## **15.3 Public Notification for Public or Evidentiary Hearings**

Public notification is statutorily required for legislative public hearings and quasi-judicial evidentiary hearings.

Public notification for quasi-judicial evidentiary hearings shall be made in the manner as described below in subsections B and C. Legislative public hearings are divided into two (2) categories: 1) Text Amendments and 2) Map Amendments (rezoning), which includes Conditional Districts, Future Land Use Map Amendments, and Vested Rights. Public notification for Text Amendments shall be made in the manner as described below in subsection A. Public notifications for Map Amendments shall be made in the manner as described below in subsections A, B, C, and D, if applicable. The notification procedures for E may replace those of C when the Map Amendment directly affects more than 50 properties owned by at least 50 different property owners.

Request	Newspaper Notice	Sign to be Posted	First Class Mail Notification (Certified Mail required if applicant is not owner)	Alternate Notifications for Rezoning more than 50 Properties
Quasi-Judicial (AMDC, HPC, Appeals, Special Use permits, and Variances)		X	X	
Map Amendments (rezonings, Conditional District rezonings, and Future Land Use Map)	X	X	X	X
Text Amendments	X			
Vested Rights	X	X	X	X

- A. **Newspaper Notice:** A notice of the proposed action shall be published in a newspaper having general circulation in the City once a week, for two (2) successive weeks, the first notice to be published not less than ten (10) days nor more than twenty-five (25) days prior to the hearing (the date of the publication shall not be included in this calculation, but the day of the hearing shall)..
- B. **Sign to be Posted:** A prominent sign shall be posted on the subject property(ies) or adjacent street right-of-way. The sign shall remain until after the decision-making authority has rendered its final decision.
- C. **First-Class Mail Notification:** A notice of the proposed action shall be sent first class mail by the Administrator at least (10) but not more than (25) days prior to the hearing to the following: the person(s) or entity initiating the hearing, the owner(s) of the affected property(ies), the owners of all abutting properties, and owners of all property within the specified distance per hearing type, as defined below:
  - 1. Legislative hearings (including but not limited to rezoning and conditional district rezonings): 250 feet of the parcel(s) in question
  - 2. Quasi-Judicial Hearings (including but not limited to Certificates of Appropriateness, Special Use permits and variances): 100 feet of the parcel(s) in question

- D. Registered or Certified Mail Notification:** If a petition for a Map Amendment (rezoning) is not requested by the owner(s) of the affected property(ies) or by the City of Salisbury, actual notice of the hearing shall be sent registered or certified mail to the owner(s) of the affected property(ies) by the petitioner of the Map Amendment.
  
- E. Alternate Notification for Rezoning more than 50 Properties:** First-class mailed notification shall not be required when the zoning reclassification action directly affects more than 50 properties, owned by a total of at least 50 different property owners. In this case, the City shall publish once a week for two successive calendar weeks in a newspaper having general circulation in the area with a map showing the boundaries of the area affected by the proposed Ordinance or amendment. The map shall not be less than one-half of a newspaper page in size. The notice shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the City's jurisdiction or outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by mail pursuant to this section. The person or persons mailing the notices shall certify to the City Council that fact, and the certificates shall be deemed conclusive in the absence of fraud. In addition to the published notice, the City shall post one or more prominent signs on or immediately adjacent to the subject property area reasonably calculated to give public notice of the proposed rezoning.

**15.3.1 Public Notice for Planning Board Courtesy Hearings**

As the Planning Board provides recommendations to City Council on all legislative matters, courtesy hearings, although not required by law, are an important opportunity for the affected and general public to express their opinions and concerns on the proposed petition.

As such, public notice for Planning Board courtesy hearings shall be made in the manner as described above in subsections B, C, and D. However, first-class mailed notice shall include the person(s) or entity initiating the hearing, the owner(s) of the affected property(ies), and the owners of all abutting properties.

**15.4 Administrative Permit Procedures - General Provisions**

Upon receipt of a complete application, the Administrator shall approve, approve with conditions, or deny the application. Applications that are denied shall have the reasons for denial, in writing, attached to the application.

- A. Permit Not Required:** Notwithstanding any other provisions of this Ordinance, a zoning permit is not required for the following uses:
  - 1. Street construction or repair by NCDOT or the City of Salisbury.
  - 2. Electric power, telephone, telegraph, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way in accordance with all applicable municipal franchise agreements.
  - 3. Specific signs exempted in Chapter 12.

4. Mailboxes, newspaper boxes, fences, flag poles, pump covers and any other structure less than 144 square feet in area.
- B. Waiver of Certain Application Requirements:** The Administrator may waive certain application requirements if it is determined that the submission of a complete development plan in accordance with Chapter 16, Development Requirements, would serve no useful purpose.
1. Signs
  2. Interior alterations and renovations that require a county building permit which does not alter the footprint or height of an otherwise conforming use and/or structure (i.e. HVAC, re-roofing, steps, or siding) except in a designated Historic District, etc.
  3. Accessory structures for all building types; or
  4. Any enlargement of a principal building by less than twenty-five percent (25%) of its existing size provided such enlargement will not result in site or landscaping improvements or the expansion of parking areas; or
  5. A change in principal use where such change would not result in a change in lot coverage, off-street parking access or other external site characteristics.
- C. Expiration of Permit:** Any zoning permit issued in accordance with this Ordinance will lapse and become invalid unless the work for which it was issued is started within six (6) months of the date of issue, or if the work authorized by it is suspended or abandoned for a period of at least one (1) year.
- D. Compliance and Violations:** Zoning permits issued on the basis of dimensional plans approved by the Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications. Use, arrangement, or construction which differs from that authorized by the zoning permit shall be deemed a violation of this Ordinance and shall be subject to civil penalties per Chapter 17, Violations and Penalties.
- E. Right of Appeal:** If a request for a zoning permit is disapproved or if a ruling of the Administrator is questioned, any aggrieved party may appeal such ruling to the Zoning Board of Adjustment in accordance with Section 15.15, Administrative Appeals.
- F. Certificate of Occupancy:** No structure shall be occupied until a Certificate of Occupancy has been issued by the Administrator. Any Certificate of Occupancy issued shall state that the structure or portion of a structure is in compliance with the information stated on the zoning permit and with all applicable provisions of this Ordinance. A record of all Certificates of Occupancy shall be kept on file in the office of the Administrator and copies shall be furnished, on request, to all interested parties. If a Certificate of Occupancy is denied, the reasons for such denial shall be specified in

writing and provided to the applicant. Where certain infrastructure or site elements have not been installed (i.e. landscaping due to time of year), a Temporary Certificate of Occupancy may be issued by the Administrator. Temporary Certificates shall remain valid for a period of 180 days and there shall be no extension beyond that 180-day period.

**G. Modification of Dimensional Standards**

1. The Administrator is authorized to approve requests that deviate from required setbacks set forth in this Ordinance by up to ten (10%) percent of the required setbacks or 24 inches, whichever is greater, upon determination that one or more of the following conditions exists:
  - a. There are site or structural conditions that preclude strict adherence to the setback requirements, such as, but not limited to: the lot does not meet the dimensional standards established for the zoning district in which it is located; the lot has topographic limitations that require placement of the structure into the required setback area; or the structure is physically in line with an existing, legally established wall or walls of a principal structure already within the minimum setback area.
  - b. The part of the proposed structure that encroaches into the minimum setback area is necessitated by a life-safety code, flood hazard reduction, Americans with Disabilities Act standard, or other public safety code requirements.
  - c. The proposed structure will allow the preservation of significant existing vegetation.
  - d. A good faith error was made in the location of a building foundation not exceeding one (1) foot due to either field construction or survey error.
2. The authority given to the Administrator to grant such modification shall be construed to be permissive and not mandatory and the Administrator may decline to make such modification. In the event this occurs, the applicant shall have the right to submit an application to the Zoning Board of Adjustment to grant a variance to these requirements.
3. Nothing in this section shall be construed as limiting the Administrator's duties and rights under this Chapter, or an applicant's right to appeal the decision of the Administrator to the Zoning Board of Adjustment.

**15.5 Grading Permits**

Permits for grading shall be required for any land disturbing activity that does not have approved construction documents. Grading permissions issued under this section shall supersede any other grading restrictions in this chapter. Grading plans must be submitted for review and shall be prepared by a licensed professional, at a scale of not less than 1 inch = 50 feet, showing existing conditions and proposed grading activity. No Grading permit shall be issued without the appropriate City, County, State, and Federal approvals; including, but not limited to, Erosion Control approval, Driveway permit, Floodplain development permit, and 401 Certification. Grading permit approval does not grant permission to proceed with infrastructure improvements.

**A. Predevelopment Grading**

Permits for predevelopment grading shall be required for any land disturbing activity of one acre or more that is not regulated by a previously approved site plan. Grading shall be considered “low impact” or high impact” in accordance with the below provisions.

1. **Low Impact Activity:** For a low impact activity, a predevelopment site grading permit can be secured following administrative review and approval. If denied, the applicant shall be issued a formal letter of denial stating, in writing, the reason(s) for the denial. If the permit is denied, the matter may be appealed to the Zoning Board of Adjustment.
2. **High Impact Activity:** If one or more of the high impact activities in the table below exist, it is considered high impact.
  - a. For a high impact activity, a predevelopment site grading permit shall be reviewed and recommended by the Technical Review Committee before being considered for approval or denial by the City Council.
  - b. Land Disturbing Activity Within 100 feet of Residential District: In the case of high impact activity number 1 (“Land disturbing activity is within 100 feet or less from a residential district.”), property owners within 100 feet of any land disturbing activity shall be notified in writing, by first class mail, of a city public hearing to be conducted prior to the City’s consideration of issuance of the permit.

Low Impact Activity	High Impact Activity
1. Land disturbing activity is more than 100 feet from a residential district.	1. Land disturbing activity is 100 feet or less from a residential district.
2. Land disturbing activity will not intrude into either the Street Yard landscaping area or Planting Yard landscaping area ( <i>see Chapter 8, Landscaping</i> )	2. Land disturbing activity will intrude into either the Street Yard area or the Planting Yard landscaping area ( <i>see Chapter 8, Landscaping</i> )
3. The steepness of the proposed slope at clearing limit is 3:1 (horizontal: vertical) or flatter	3. The steepness of the proposed slope at clearing limit is greater (steeper) than 3:1 (horizontal: vertical)
4. The height of proposed grade change (cut or fill) is less than or equal to 3 feet.	4. The height of the proposed grade change is greater than 3 feet.

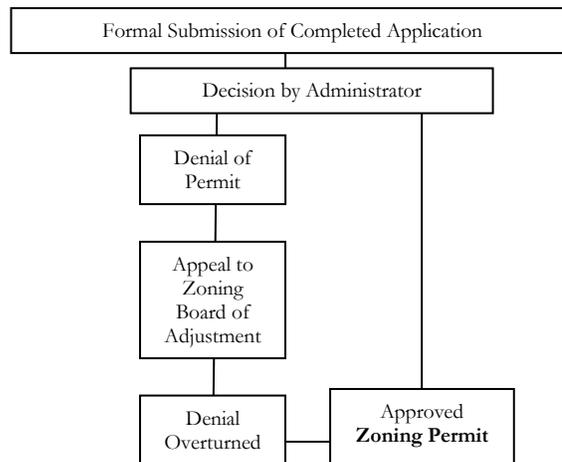
**B. Plan Approved Grading**

Any major subdivision, major site plan, minor site plan, or conditional district rezoning that has not expired and has received master plan or preliminary plat approval shall qualify to apply for a grading permit. A Plan Approved Grading permit can be secured following administrative review and approval. If denied, the applicant shall be issued a formal letter of denial stating, in writing, the reason(s) for the denial. If the permit is denied, the matter may be appealed to the Zoning Board of Adjustment. No grading permit shall be required if the development has already received Construction Document approval and the master plan or preliminary plat has not expired.

15.6 Zoning Permits

- A. **Applicability:** A Zoning Permit is required for the approval of all applications for individual buildings, signs, and all other development applications not otherwise covered by other procedures in this Chapter.
- B. **Case Management:** The Administrator, or their designee, shall assign a case number to all Zoning Permits for processing and permanent tracking. Following original approval of the case, any and all changes to the Schematic Plan shall be considered modifications to the original and shall be processed under the original case number. Any approved modifications shall fully replace the original approval. Concurrently-approved Schematic Plans for the same property or properties are prohibited.
- C. **Procedure:**

APPLICATION	REVIEW AUTHORITY	ACTION TO BE TAKEN	APPEAL PROCESS
Schematic Plan (16.3) w/Building Design Plans (16.12)	Administrator	Zoning Permit Issued <b>-or-</b> Denial and Request for Resubmission	Zoning Board of Adjustment



## 15.7 Certificate of Appropriateness

### A. Applicability

**Buildings, structures, sites, areas, or objects** in Locally Designated Historic Districts and Landmarks

### B. Certificate of Appropriateness Required

1. No exterior portion of any buildings structures, sites, areas, or objects(including but not limited to masonry, walls, fences, light fixtures, steps and pavement, or other appurtenant features) nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished on a locally designated landmark, or within the local historic overlay districts until after an application for a Certificate of Appropriateness as to exterior features has been submitted to and approved by the Historic Preservation Commission for major works or City Staff for minor works.

Alterations shall be evaluated for appropriateness by applying the “Historic Design Standards,” incorporated into this Land Development Ordinance by reference. The Historic Design Standards provide guidance related to exterior features and includes reference to the architectural style, general design and general arrangement of the exterior of a building or other structure, including the color, the kind and texture of the building material, the size and scale of the building and the type and style of all windows, doors, light fixtures, signs and/or other appurtenant fixtures. In the case of outdoor advertising signs and/or other objects, exterior features shall be construed to mean the style, material, size and location of all such signs.

2. A Certificate of Appropriateness shall be issued by the Commission or City Staff prior to the issuance of a zoning permit or other permit granted for purposes of constructing, altering, moving or demolishing structures. A Certificate of Appropriateness shall be required whether or not a zoning permit is required. Therefore, a Certificate of Appropriateness is a prerequisite to the issuance of such a zoning permit or such other permits. Any such zoning permits or such other permits not issued in conformity with this section shall be invalid.
3. The State of North Carolina, the City of Salisbury and all public utility companies shall be required to obtain a Certificate of Appropriateness for work within the boundaries of landmarks and in the historic district prior to initiating any changes in the character of street paving, sidewalks, utility installations, lighting, walls, fences, structures and buildings on property, easements or streets owned or franchised by the State of North Carolina, the City of Salisbury or public utility companies.

- C. Criteria to determine appropriateness:** The following review criteria, along with companion Historic Design Standards, incorporated by reference, and the Standards of the Secretary of the Interior, shall be considered, relevant to make Findings of Fact indicating the extent to which the application for a Certificate of Appropriateness is or is not congruous with the historic aspects of the designated landmark or district.
1. Building height.
  2. Walls.
  3. Proportion of width to height of the total building facade.
  4. Proportion, shape, positioning, location, pattern and sizes of any elements of fenestration.
  5. Spacing of buildings, defined as the distance between adjacent buildings.
  6. Building materials.
  7. Surface textures.
  8. Color.
  9. Expression of architectural detailing.
  10. Roof shapes.
  11. Scale.
  12. Orientation of the building to the street.
  13. Ground cover or paving.
  14. Signs.
  15. Exterior lighting and appurtenant features.
  16. The Commission shall adopt principles and standards interpreting these criteria for new construction, alterations, additions, moving and demolition of landmarks or properties in the historic district.
- D.** Newly established Local Historic Overlay districts and Historic Landmark Overlays shall fall under the regulation of the Historic Design Standards unless otherwise detailed and adopted.

- E. Certificate of Appropriateness Not Required:** Examples of specific items that will not require a Certificate of Appropriateness are:
1. Underground utilities, except where archaeological finds or sites are uncovered;
  2. Extension or upgrading of service to customers for equipment such as meters, valves and cleanouts;
  3. Changes in type or amount of mechanical equipment such as interfaces, transformers or traffic-control devices on existing overhead lines, poles or ground-mounted installations;
  4. Deletion or replacement of poles of standard material and height, not to exceed forty-five (45) feet;
  5. Addition or deletion of fire hydrants;
  6. Routine replacement of street signs;
  7. Any upgrading of facilities to comply with National Electrical Safety Code (NESC) requirements;
  8. Addition of equipment on existing lines or poles;
  9. Replacement of existing overhead lines, poles or ground-mounted installation;
  10. Addition or replacement of street lights on existing poles according to the City's standard street lighting policy and using cut-off fixtures, except on blocks with gas lamps;
  11. Addition or replacement of benches, trash receptacles, and bicycle racks in the downtown constructed of steel, dark green or black in color, using traditional designs similar in appearance to existing examples in the downtown;
  12. Addition or replacement of decorative, pedestrian-scale street lights in the public right-of-way constructed of steel, dark green or black in color, using traditional designs similar in appearance to existing examples in the downtown;
  13. Sidewalks, curb extensions at intersections and truncated dome insets on handicap ramps constructed of brick pavers in color variations of red, red-brown, or maroon, and buff as a secondary color, with granite or concrete curbs;
  14. Temporary art or sculpture where free-standing displays will be limited to a period of no more than one year and where all supporting surface materials, including concrete, asphalt, brick paving, sod or other materials, will be returned to their original appearance at the end of the display period, and that after a period of one year, a renewal of one year may be allowed pending approval of the Public Art Commission.

**F. Certificate of Appropriateness for Demolition**

1. In accordance with NCGS § 160D-949 , an application for a Certificate of Appropriateness authorizing the relocation, demolition or destruction of a designated landmark or a building, structure or site within historic district may not be denied except as provided in paragraph (2) below. However, the effective date of such a certificate may be delayed for a period of up to three hundred sixty-five (365) days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period the Commission shall negotiate with the owner and with any other parties in an effort to find a means of preserving the building or site.
2. An application for a Certificate of Appropriateness authorizing the demolition or destruction of a building, site or structure determined by the state historic preservation officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied except where:
  - a. The Commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial; or
  - b. The City has adopted a demolition ordinance under the minimum housing code.
3. If the Commission has voted to recommend designation of a property as a Landmark or designation of an area as a District, and final designation has not been made by the City Council, the demolition or destruction of any building, site or structure located on the property of the proposed landmark or in the proposed district may be delayed by the Commission for a period of up to one hundred eighty (180) days or until the City Council takes final action on the designation, whichever comes first.

**G. Authentic Restorations**

1. In the event that the Commission, in considering an application for a Certificate of Appropriateness, shall find that a building or structure for which a zoning permit is requested is to be an authentic restoration or reconstruction of a building or structure which existed at the same location but does not meet zoning requirements, said building or structure may be authorized to be restored or reconstructed at the same location where the original building or structure was located, provided the Zoning Board of Adjustment authorizes such as a special exception and no use other than that permitted in the district in which such is located is made of said property. Such conditions as may be attached to the Historic Preservation Commission approval and those conditions as may be set by the Zoning Board of Adjustment shall be included in any Certificate of Appropriateness related thereto.

2. If the Commission finds that an application for a Certificate of Appropriateness concerning any porches, steps, posts, fences, walls or other items extending over, on or within public rights-of-way to be necessary for the authentic restoration, reconstruction or maintenance thereof, and will not impede or block pedestrian traffic or constitute a hazard to public safety, such findings shall be transmitted to City Council for its consideration in authorizing or denying such encroachments into rights-of-way.
3. If the Council authorizes such encroachment, any items restored, reconstructed or maintained on, over or within a public right-of-way shall be the responsibility of the owner, and the owner shall agree to protect and hold the City of Salisbury blameless against any and all liability, cost damage or expense suffered as a result of the restoration, reconstruction or maintenance thereof. The lowest point of any such item projecting over any sidewalk shall be at least nine (9) feet above the sidewalk immediately below.

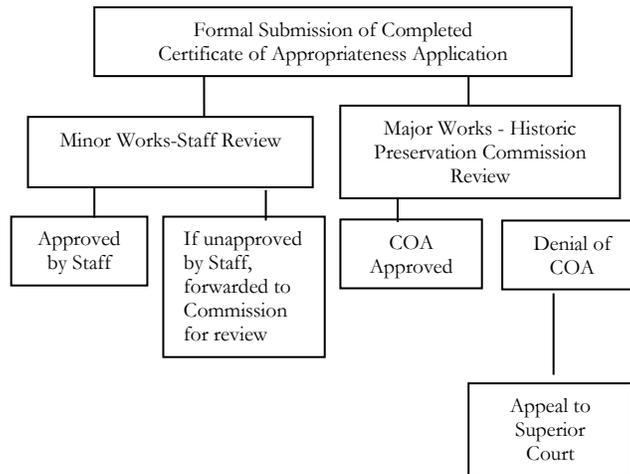
- H. Minor Works:** A Certificate of Appropriateness application, when determined to involve a minor work, may be reviewed and approved by the Administrator (Staff Approval). Minor Works are defined as those exterior changes that do not involve substantial alterations, additions or removals that could impair the integrity of the landmark or property in the historic district and are specified in the Historic Design Standards.

An application may receive a Certificate of Appropriateness from City staff if it falls under the list of minor works provided in the Local Historic Design Standards and/or incorporated Rules of Procedure.. If staff does not or cannot approve a Certificate of Appropriateness, the applicant will be advised to make a formal application to the Historic Preservation Commission. No application may be denied without formal action by the Historic Preservation Commission.

- I. Effect of Certification of Appropriateness Approval:** Passage of a motion to approve, with or without modification, an application shall constitute the issuance of a Certificate of Appropriateness by the Historic Preservation Commission. The application and the duly approved minutes of the Commission shall constitute the written documentation of such issuances. Following the meeting a Certificate shall be mailed to the property for which a Certificate has been issued. The Certificate shall be posted on the premises, in a location visible from the street, while the work is in progress. Minutes of a Historic Preservation Commission meeting shall be approved before the end of the next meeting.
- J. Expiration of Certificate:** A Certificate of Appropriateness shall be valid for a period of six (6) months from the date of issuance for the purpose of obtaining a Zoning Permit or other permit for constructing or altering structures. A Certificate of Appropriateness shall expire six (6) months after the date of issuance if the work authorized by the Certificate has not been commenced. If after commencement the work is discontinued for a period of six (6) months, the permit therefore shall immediately expire.
- K. Demolition by Neglect Prohibited:** RESERVED

L. Procedure:

APPLICATION	REVIEWING AUTHORITY	ACTION TO BE TAKEN	APPEAL PROCESS
Certificate of Appropriateness – Minor Works	Administrator (Staff)	COA Issued	Historic Preservation Commission
Certificate of Appropriateness - Major Works -	Historic Preservation Commission	COA Issued <b>-or-</b> Denied and/or Request for Resubmission	Superior Court



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15.8 Minor Site Plan

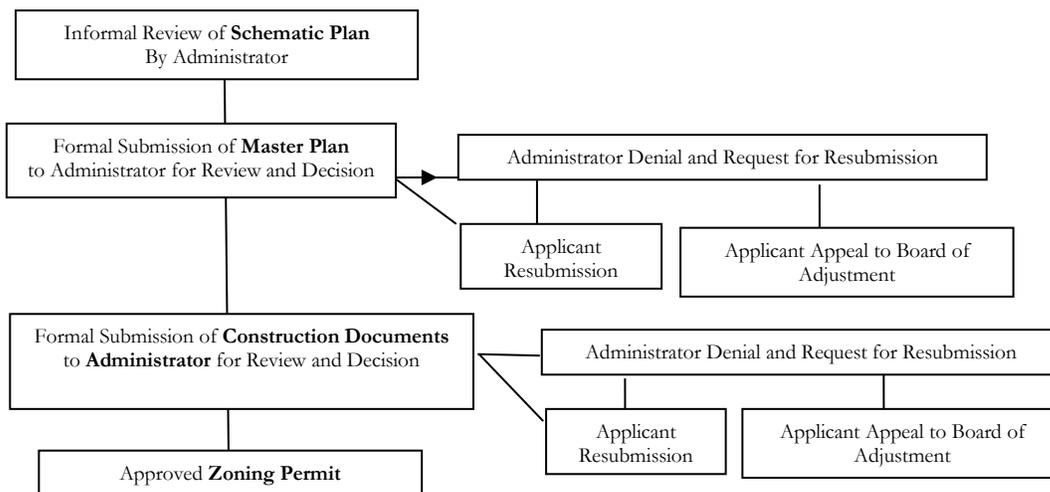
A. Applicability:

- Multi-family development less than 8 units
- Non-residential development or expansion less than 10,000 square feet in gross floor area

B. **Case Management:** The Administrator, or their designee, shall assign a case number to all Minor Site Plans for processing and permanent tracking. Following original approval of the case, any and all changes to the plan shall be considered modifications to the original plan and shall be processed under the original case number. Any approved modifications shall fully replace the original approval. Concurrently-approved plans for the same property or properties are prohibited.

C. Procedure:

APPLICATION	REVIEWING AUTHORITY	ACTION TO BE TAKEN	APPEAL PROCESS
Schematic Plan (16.3)	Administrator	For Non-Binding Review Only	n/a
Master Plan (16.4)	Administrator	Review for Completeness & Ordinance Compliance Approval Issued <b>-or-</b> Denial and Request for Resubmission	Board of Adjustment
Construction Documents (16.5) (if applicable)	Administrator	Review for Completeness & Ordinance Compliance Zoning Permit Issued <b>-or-</b> Denial and Request for Resubmission	Board of Adjustment



**15.9 Major Site Plan**

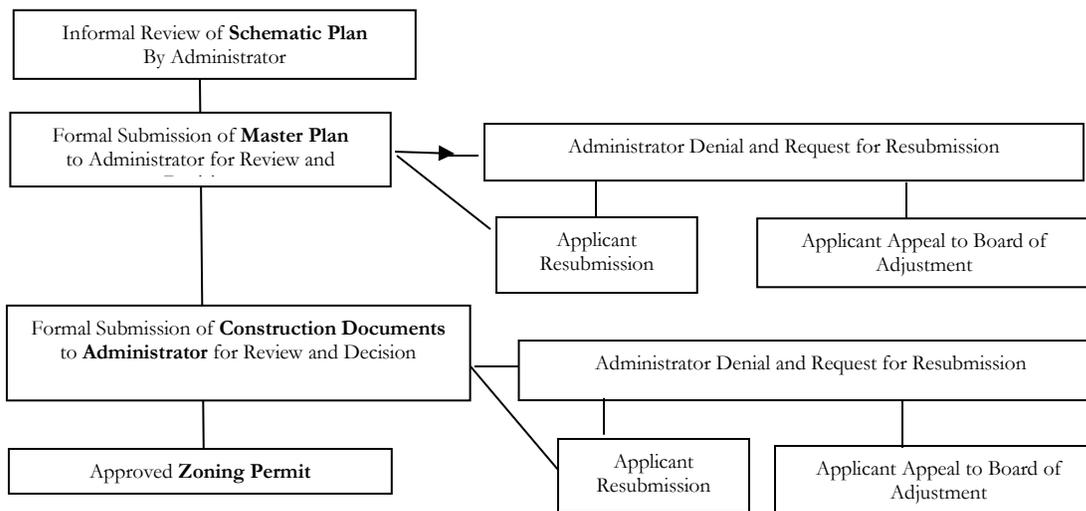
**A. Applicability:**

- Multi-family development with 8 or more units
- Non-residential development or expansion 10,000 square feet or greater in gross floor area
- Industrial development

**B. Case Management:** The Administrator, or their designee, shall assign a case number to all Major Site Plans for processing and permanent tracking. Following original approval of the case, any and all changes to the plan shall be considered modifications to the original plan and shall be processed under the original case number. Any approved modifications shall fully replace the original approval. Concurrently-approved plans for the same property or properties are prohibited.

**C. Procedure:**

APPLICATION	REVIEWING AUTHORITY	ACTION TO BE TAKEN	APPEAL PROCESS
Schematic Plan (16.3)	Administrator	For Non-Binding Review Only	n/a
Master Plan (16.4)	Technical Review Committee (TRC)	Review for Completeness & Ordinance Compliance Approval Issued <b>-or-</b> Denial and Request for Resubmission	Zoning Board of Adjustment
Construction Documents (16.5)	Administrator	Review for Completeness & Ordinance Compliance Zoning Permit Issued <b>-or-</b> Denial and Request for Resubmission	Zoning Board of Adjustment



### 15.10 Subdivision Procedures - General Provisions

- A. Case Management:** The Administrator, or their designee, shall assign a case number to all subdivision plats for processing and permanent tracking. Following original approval of the case, any and all changes to the plat shall be considered modifications to the original plat and shall be processed under the original case number. Any approved modifications shall fully replace the original approval. Concurrently-approved plats for the same property or properties are prohibited.
- B. Approval to Proceed with Construction Activity:** Grading, soil erosion control, and infrastructure construction activities shall not commence before a Final Plat has been properly approved and recorded for a Minor Subdivision or Construction Document approval for Major Subdivisions as prescribed by this Chapter.
- C. Preliminary Plat:**
- 1. Approval Duration:** The approval of the Preliminary Plat shall become null and void within three (3) years, unless the developer has completed required improvements (or posted the appropriate guarantee of improvements) and submitted for approval the final plat as required by this ordinance or shall have applied for and received an extension of time from the Administrator. The Technical Review Committee may, at its discretion, require a Preliminary Plat to adhere to any new requirements before granting this extension. If a Preliminary Plat becomes null and void, the subdivider may resubmit for an updated approval; however, the resubmitted Preliminary Plat may be subject to any new requirements for Preliminary Plats in effect at the time re-approval is sought, and fees shall be paid at fifty percent (50%) of current standard fees.
  - 2. Multiple Phases Not Approved:** Approval of a Preliminary Plat constituting an individual phase of a multi-phase project, which has not been entirely approved, does not constitute approval by the City of any remaining phases. For approved Preliminary Plats consisting of multiple phases, only the phase that is to be developed for sale immediately (or have been guaranteed in accordance with 15.10.C.2 below) shall be submitted for Final Plat approval.
- D. Final Plats:**
- 1. Improvements Required:** The Final Plat shall constitute a complete phase of the approved Construction Documents. No Final Plat shall be approved unless and until the developer has installed in that area all improvements required by this Ordinance or has posted any required improvement guarantees approved by the Administrator and prescribed by this Ordinance in Section 4.5, Installation of Improvements.
  - 2. Plats to be Recorded:** Approved Final Plats shall be filed by the applicant for recording with the Register of Deeds of Rowan County within thirty (30) days of the date of approval by the Administrator; otherwise, such approval shall be null and void.

**E. Record Plats:**

Any map for recordation that does not constitute a subdivision shall be submitted to the subdivision administrator who shall determine that the requirements of this ordinance are not applicable. Such determination shall be affixed to the map for recordation as shown in section 16.8., Record Plat Requirement. One (1) print shall be retained by and become a permanent record of the City. There shall be no filing fee for such a map.

**15.11 Exception Plat Subdivision**

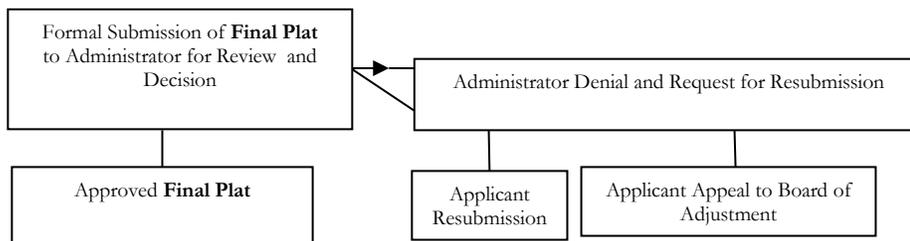
**A. Applicability:**

An Exception Plat is:

- The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the city as required by this ordinance;
- The division of land into greater than ten (10) acres where no street right-of-way dedication is involved;
- The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors; or
- The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the municipality as required by this ordinance.

**B. Procedure:**

APPLICATION	REVIEWING AUTHORITY	ACTION TO BE TAKEN	APPEAL PROCESS
Final Plat (16.6 & 16.7)	Administrator	Review for Completeness & Ordinance Compliance Final Plat Issued <b>-or-</b> Denial and Request for Resubmission	Zoning Board of Adjustment



15.12 Minor Subdivision

A. Applicability:

A Minor Subdivision is a subdivision of land:

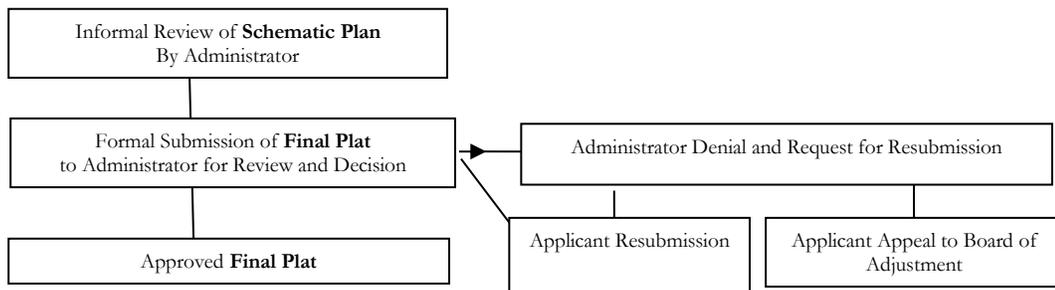
- Involving not more than four (4) lots fronting on an existing approved street; and
- Not involving any new street or prospectively requiring any new street for access to interior property; and
- Not requiring extension of public sewage or water lines to serve properties at the rear; and
- Creating no new or residual parcels not conforming to the requirements of these regulations and related ordinances; and
- Not being located partially or entirely within a WS-IV-PA (Watershed) Zoning overlay

The draft plat shall show the location of the nearest public water and sewer systems. Within the city limits, if any portion of the original tract lies within two hundred (200) feet of a public sewer main, or within three hundred (300) feet of a public water line, all newly created lots shall have direct access to the respective public utility. If a utility extension is necessary to meet this requirement, the development will not qualify as a minor plat subdivision.

The abbreviated procedure may not be used a second time within three (3) years on any property less than fifteen hundred (1,500) feet from the original property boundaries by anyone who owned, had an option, or any legal interest in the original property at the time the minor subdivision received final plat approval.

B. Procedure:

APPLICATION	REVIEWING AUTHORITY	ACTION TO BE TAKEN	APPEAL PROCESS
Schematic Plan (16.3)	Administrator	For Non-Binding Review Only	n/a
Final Plat (16.6 & 16.7)	Administrator	Review for Completeness & Ordinance Compliance Final Plat Issued <b>-or-</b> Denial and Request for Resubmission	Board of Adjustment



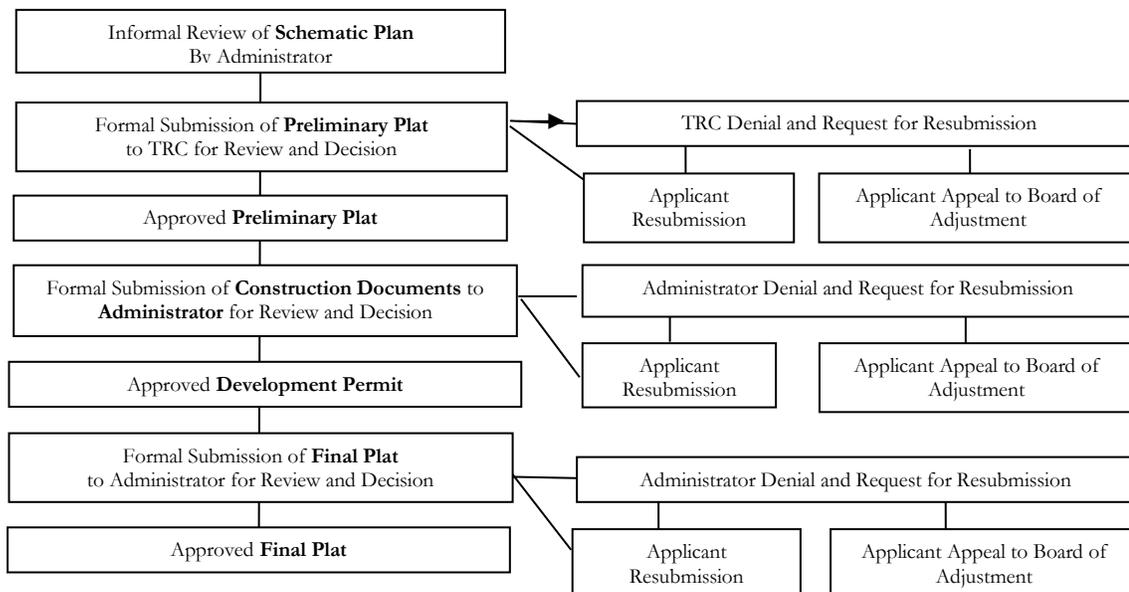
**15.13 Major Subdivision**

**A. Applicability:**

A Major Subdivision is a subdivision of land that exceeds the minimum thresholds for Exception Plats and Minor Subdivisions.

**B. Procedure:**

APPLICATION	REVIEWING AUTHORITY	ACTION TO BE TAKEN	APPEAL PROCESS
Schematic Plan (16.3)	Administrator	For Non-Binding Review Only	n/a
Preliminary Plat (16.4)	Technical Review Committee (TRC)	Review for Completeness & Ordinance Compliance Preliminary Plat Issued <b>-or-</b> Denial and Request for Resubmission	Board of Adjustment
Construction Documents (16.5)	Administrator	Review for Completeness & Ordinance Compliance Development Permit Issued <b>-or-</b> Denial and Request for Resubmission	Board of Adjustment
Final Plat (16.6 & 16.7)	Administrator	Review for Completeness & Ordinance Compliance Final Plat Issued <b>-or-</b> Denial and Request for Resubmission	Board of Adjustment



15.14 Quasi-Judicial Proceedings – General Provisions

- A. **Purpose:** This section provides for the discretionary evaluation of certain applications by requiring that certain decisions follow “quasi-judicial” proceedings which are public evidentiary hearings. These evidentiary hearings include testimony provided under oath and the findings of fact supported by competent, substantial, and material evidence. Specifically, these quasi-judicial procedures are applied to Administrative Appeals, Variances, Alternate Methods of Compliance, Certificates of Appropriateness and Special Use Permits.
  
- B. **Judicial Appeals:**
  - 1. Every quasi-judicial decision of the Zoning Board of Adjustment, City Council, Planning Board and Historic Preservation Commission shall be subject to review by the Superior Court Division of the General Courts of Justice of the State of North Carolina by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be duly verified and filed with the Clerk of Superior Court within thirty (30) days after a decision is filed in the office of the City Clerk, or after a written copy is delivered to every aggrieved party who has filed a written request for such copy with the Administrator at the time of the hearing of the case, whichever is later.
  
  - 2. Every quasi-judicial decision of the Alternate Methods of Design Commission shall be appealed to the Zoning Board of Adjustment within thirty (30) days of the decision. Appeals shall be submitted in writing to the Development Services division for scheduling and processing.
  
- C. **Quasi-Judicial Procedures:**
  - 1. **Witnesses:** Any person intending to present testimony shall be treated as a witness. The Administrator and any staff member shall be treated as a witness when 1) defending an interpretation of this Ordinance, 2) stating what is perceived to be facts of a case, or 3) making a recommendation concerning the outcome of a case. All witnesses shall be sworn by the Mayor or Board /Commission chair before the opening of the evidentiary hearing.
  
  - 2. **Evidentiary Hearing:** An evidentiary hearing shall be held on each quasi-judicial case. The Mayor or Board /Commission chair shall open and close the hearing; however, the hearing may be continued to another meeting if the motion to continue specifies when and where the continued hearing will be held. Once the evidentiary hearing is closed, the vote may occur at the same meeting or carried over to future duly-noticed meeting.
  
  - 3. **Deliberation:** Following closure of the evidentiary hearing, the City Council, Zoning Board of Adjustment, Planning Commission, Historic Preservation Commission or Alternate Methods of Design Commission must deliberate on the evidence provided during testimony and the ordinance standards applicable to the case in order to make conclusions of law explaining the logic behind the impending decision. The findings of fact must be designed to summarize all

evidence, allowing conclusions of law to be made about how the ordinance standards apply to the case.

4. **Findings of Fact & Conclusions of Law:** Following adjudication of the case, the findings of fact and conclusions of law shall be stated at the meeting. The Administrator, or their designee, shall prepare the findings of fact and conclusions of law for review and approval at the next meeting.
5. **Voting:** The concurring vote of four-fifths of the Zoning Board of Adjustment shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For purposes of this subsection, vacant positions of the Zoning Board of Adjustment and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternatives available to take the place of such members. (G. S. 160D-406(i)).
6. **Rehearing:** An application for a rehearing shall be made in the same manner as provided for an original hearing within a period of fifteen (15) days after the date of adjudication. In addition, specific information to enable the City Council, Zoning Board of Adjustment, or Alternate Methods of Design Commission to determine whether or not there has been a substantial change in facts, evidence, or conditions in the case, shall be presented in writing or graphically. A rehearing shall be denied by the City Council, Zoning Board of Adjustment, or Alternate Methods of Design Commission, if, in its judgment, such change in facts, evidence or conditions has not been proven. An evidentiary hearing shall not be required to be held to consider holding such a rehearing.

### 15.15 Administrative Appeals

- A. **Applicability:** The Zoning Board of Adjustment shall hear and decide appeals from and review any order, requirement, decision, interpretation or citation made by the Administrator, the Technical Review Commission, and apply such interpretation to particular fact situations.
- B. **Applicant with Standing:** An appeal may be made by any aggrieved party or by any officer, department or board of Salisbury who has received a ruling from the Administrator, the Technical Review Commission, upon the submission of a completed application. An appeal to the Zoning Board of Adjustment shall be made within thirty (30) days of the decision, order, determination, or interpretation made by the Administrator. A properly-filed appeal shall be placed on the Zoning Board of Adjustment agenda within 30 days of filing. The filing of any application stays all proceedings unless the Administrator certifies that a stay in his opinion will cause imminent peril to life or property, or, that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of the Ordinance. In that event, proceedings shall not be stayed except by a restraining order, which may be granted by the Zoning Board of Adjustment or by a judicial court of law.

- C. **Board Powers and Responsibilities:** The Zoning Board of Adjustment may, after having held a public hearing on the matter, reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination appealed. The Zoning Board of Adjustment shall have all the powers of the Administrator in making any order, requirement, decision, interpretation or determination with reference to an appeal or petition.
- D. **Majority Required: A majority** vote shall be necessary to make an interpretation of the Ordinance, reverse any order, requirement, or decision or determination of the Administrator. All decisions of the Zoning Board of Adjustment shall be in writing and filed with the Administrator.

### 15.16 Variances

- A. **Applicability:** When practical difficulties, special conditions, or unnecessary hardships would result from carrying out the strict letter of this Ordinance, the Zoning Board of Adjustment shall have the power to vary or modify any of the regulations or provisions of this Ordinance.
- B. **Applicant with Standing:** A petition for a variance may be initiated only by the owner of the affected property, an agent authorized in writing to act on the owner's behalf, or a person having a written contractual interest in the affected property upon the submission of a completed application. The filing of any application stays all proceedings unless the Administrator certifies that a stay in his opinion will cause imminent peril to life or property, or, that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of the Ordinance. In that event, proceedings shall not be stayed except by a restraining order, which may be granted by the Zoning Board of Adjustment, City Council or by a judicial court of law.
- C. **Required Findings & Conclusions of Law:** The Board of Adjustment may only grant a variance having first held a public hearing on the matter. No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection. When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of 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 a 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.
  5. The following are not causes for a variance:
    - The citing of other nonconforming or conforming uses of land or structures in the same or other districts.
    - The request for a particular use expressly, or by inference, prohibited in the district involved.
    - Economic hardship or the fact that property may be utilized more profitably with a variance.
- D. Board May Apply Conditions to Motion:** The Zoning Board of Adjustment, in granting a variance, may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which a variance is granted, shall be deemed a violation of this Ordinance and shall be punishable as prescribed in Chapter 19.
- E. 4/5 Supermajority Required for Decision:** The concurrent 4/5 supermajority vote shall be necessary to grant a variance. All decisions of the Zoning Board of Adjustment shall be in writing and filed with the Administrator.
- F. Time for Decision:** Except for modification of dimensional standards as noted in Section 15.4.G.1, the Zoning Board of Adjustment shall hold a public hearing on an application no later than 60 days after a complete application has been filed with the Administrator. The Zoning Board of Adjustment shall decide on the matter which was presented at the public hearing within 31 days of the close of the public hearing.
- G. Effect of Denial-Time to Resubmit:** Upon the denial of an original application, or upon the denial of an application from which a rehearing has been conducted, a similar application may not be filed for a period of one year after the date of denial of the original application.

### 15.17 Alternate Methods of Compliance

- A. Purpose:** Alternate methods of compliance is a method by which the Alternate Methods of Design Commission (AMDC) may approve alternative materials or alternative methods to specific design-related provisions throughout this Ordinance. Several of the following provisions are also eligible for exemption through the Conditional District (CD) process. When processing a CD petition, the AMDC operates as a legislative advisory body and may recommend alternate methods of compliance to the Planning Board. The specific provisions eligible for alternate methods of compliance are as follows:
1. **Sec. 2.4.D.1:** Building Design Standards for Light & Heavy Industrial development

2. **Sec 5.6.A:** Building Placement and Orientation, except that Campus-Style Development requires consideration through the Conditional District process.
3. **Sec. 5.7.A-B:** Residential Cladding and Construction Methods
4. **Sec. 5.8.D, 5.9.C, 5.10.B, 5.12.B, 5.13.B:** Design Element Provisions for House, Townhouse, Apartment, Mixed-Use, and Commercial types
5. **Sec. 5.11.A-B:** Mixed-Use, Commercial, Institutional, and Public Landmark Cladding and Street Wall provisions
6. **Sec. 10.4:** Off-Street Parking Area Design Provisions
7. **Sec. 11.4:** Non-Residential Lighting Design Provisions

Alternate methods of compliance may not be suitable for all scenarios of development. The purpose of the alternate methods of compliance is to allow variation in design consideration due to physical building or site constraints, innovative design and/or development technologies, and the inability of this Ordinance to consider every possible building or landscape material available to the market that is in agreement with the city's adopted land-use policies and will produce an equal level of results as intended by this Ordinance.

**B. Application:** An application for AMDC consideration shall include the following:

1. Completed application, and
2. Copy of proposed Schematic or Master Plan, and
3. Copy of proposed Building Design Plans

**C. General Findings Criteria:** Findings, based on the following criteria, shall be produced by the commission supporting their decision to approve or deny the alternate method of compliance. The commission shall have the authority to suggest a different alternative than requested; however, suggested changes must be approved by the applicant. In addition to any specific criteria associated with the particular design-related provision, the following general review criteria shall be considered by the commission when deliberating and considering the findings of fact and conclusions of law prior to voting:

1. **Equal or Superior Means:** The alternate method of compliance meets or exceeds the applicable Ordinance provision.
2. **Design Characteristics:** Physical design characteristics unique to the proposed or existing building or site make strict compliance with the applicable Ordinance provision(s) impractical or unreasonable.
3. **Redevelopment or Additions to Existing Development:** The alternate method of compliance considers the site and/or building design of the existing

development and strives to preserve or enhance those existing design characteristics that meet or exceed the applicable Ordinance provision

### **15.18 Special Use Permits**

**A. Purpose:** Special Uses are land uses that are generally compatible with the land uses permitted by right in a zoning district, but which require individual review of their location, design, and configuration so as to evaluate the potential for adverse impacts on adjacent property and uses. Special Uses ensure the appropriateness of the use at a particular location within a given zoning district.

**B. General Requirements:**

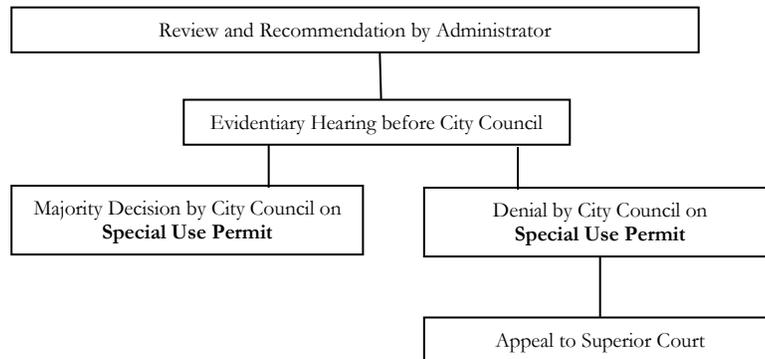
1. Only those uses enumerated as Special Uses in a zoning district shall be authorized by the City Council.
2. The evaluation and approval of the Special Use Permit shall be governed by quasi-judicial proceedings, which are based upon the sworn testimony and evidence presented at the hearing relevant to the following standards:
  - a. The use meets all required principles and specifications of the Ordinance and any adopted land use plans and is in harmony with the general purpose and intent and preserves its spirit; and
  - b. The proposed plan as submitted and approved will be visually and functionally compatible to the surrounding area; and
  - c. The public health, safety, and welfare will be assured and the proposed development will not substantially injure the value of adjoining property and associated uses if located where proposed.
3. In approving an application for a Special Use Permit, the City Council may attach fair, reasonable, and appropriate conditions on the location, nature, and extent of the proposed use. Any condition imposed must be related to the standards established by this Ordinance for Special Use Permits, and must be supported by adequate evidence in the record. The City Council may not require the landowner to waive a vested right as a condition of the Special Use Permit approval. The burden of proof of producing evidence to support these Findings and to overcome any challenges that approval of the plan would be contrary to one or more of these Findings shall rest entirely with the applicant or landowner. The applicant shall have up to thirty (30) calendar days to consider and respond to any additional requirements prior to approval or denial by the City Council. The applicant and property owner must consent in writing to any conditions imposed by the City Council (S.L. 2019-111).
4. The applicant shall establish the use authorized by the Special Use Permit, and shall secure any other applicable permits, including but not limited to valid building permits, within a twelve (12) month period from date of approval of the Special Use Permit, unless otherwise specified.

- C. Effect of Approval:** If an application is approved, the Special Use Permit that is established and all conditions which may have been attached to the approval are binding on the property. All subsequent development and use of the property shall be in accordance with the approved plan and conditions. The applicant shall record the approved Special Use Permit in the Rowan County Register of Deeds office and submit a copy to the City prior to release of any City permits (G. S. 160D-705C). The authorization of Council for a Special Use Permit and all supporting documentation shall become a part of the Certificate of Occupancy.
- D. Substantial Changes:** Any substantial change to a Special Use Permit that results in the increase of the intensity, density, or character of the use shall be approved or denied by the City Council as an amended Special Use Permit. Minor field alterations or minor revisions to approved Special Use Permits may be approved by the Administrator if the Special Use still meets the intent of the standards established with the original approval.
- E. Appeal:** The determination of the Salisbury City Council shall be conclusive and final and there shall be no further appeal to the Zoning Board of Adjustment or any other administrative board or commission except the State Superior Court. A request for a review may be made in the same manner as an original request. Evidence in support of the request shall initially be limited to that which is necessary to enable council to determine whether there has been a substantial change in the facts, evidence, or conditions in the case. It shall thereupon treat the request in the same manner as the original request. Otherwise, the Council may terminate any further consideration of such request. The City Council may, however, review its authorization and the conditions thereof and after such review may modify or change the conditions of the Special Use Permit or may terminate the Special Use Permit only upon agreement with one or more of the criterion set forth in 15.17.G.3, below. Any appeal for administrative review concerning the enforcement of a Special Use Permit shall be to the Salisbury City Council.
- F. Expiration or Rescission of Special Use Permits:**
1. If the authorized use is not established or any applicable permit is not obtained at the end of the twelve (12) month period, the Special Use Permit shall expire.
  2. Criteria for which a Special Use Permit may be rescinded or terminated by City Council shall be as follows:
    - a. Non-compliance with adopted conditions.
    - b. Expressed diminution of value of surrounding properties that may only be found during the evidentiary hearing and made a part of the Findings of Fact.
    - c. Expressed negative effects related to the general safety, health, and welfare of the surrounding community, which may only be found during the evidentiary hearing and made a part of the Findings of Fact.
    - d. Recorded and repeated Code violations.

- e. Any non-conformity created by amortization of the permitted use which would only be established as a condition of the permit.
- f. Any zoning map amendment to a zoning district that would create a non-conformity between the district and associated permit.

**G. Procedure:**

APPLICATION	REVIEWING AUTHORITY	ACTION TO BE TAKEN	APPEAL PROCESS
Special Use Permit w/ Master Plan (16.4)	Administrator	Review submittal procedures and requirements Review for completeness & code compliance. Issue Staff Report and recommendation	n/a
	City Council	<u>Evidentiary</u> hearing	n/a
	City Council	Approval of Special Use Permit – <b>or</b> – Denial and Request for Rehearing	Superior Court



15.19 Legislative Procedures – General Provisions

- A. **Purpose:** The purpose of this Section is to establish uniform procedures for processing matters requiring a legislative approval process. Specifically, these legislative procedures are applied to Text Amendments, Map Amendments (rezonings), Conditional Districts, Future Land Use Map Amendments, and Vested Rights.
- B. **Amendments and Regulations pertaining to a Watershed District:** Under no circumstances shall the City Council adopt any amendment, addition, or deletion that would cause these regulations to violate the watershed protection rules as adopted by the North Carolina Environmental Management Commission. Any amendment to the boundaries of a Water Supply Watershed District or to the text of this Ordinance related to Watershed Protection shall be referred to the North Carolina Division of Water Quality for their review prior to adoption.
- C. **Required Community Meeting:** The petitioner and/or property owner of parcel(s) to be considered for either a map amendment per Section 15.22 or conditional district zoning per Section 15.23 must notify neighbor and hold a community meeting prior to submitting the petition to rezone the subject parcel(s). First-class mailed notifications shall be made in the manner specified in Section 15.3 for legislative hearings. A copy of the notification, the mailing list, a sign-in sheet, copy of all materials distributed with a report on the communication shall be submitted as a requirement of the petition. Community meetings shall be held no more than three (3) months in advance of submittal to the City.
- D. **Required Compliance with Adopted Plans:** Zoning regulations and amendments should be considered in conjunction with the comprehensive plan and any other applicable officially-adopted plans. Prior to adopting or rejecting any zoning amendment, the City Council shall adopt a statement describing whether its action is consistent with an adopted plan and explaining why the Council considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review. The adopted consistency statement and reasonableness statement may be combined into a single statement by City Council.

The Planning Board shall advise and comment on whether the proposed amendment is consistent with the comprehensive plan and any other applicable officially-adopted plans. The Planning Board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the City Council.

If a zoning map amendment is approved and the action was deemed inconsistent with the adopted comprehensive plan, the zoning map amendment shall have the effect of automatically amending the future land use map in the comprehensive plan and no additional request or application for a plan amendment shall be required. A future land use map amendment and a zoning map amendment may be considered concurrently.

**E. City Council Decision:** Once the public hearing has been conducted the City Council shall render a decision on the petition. All decisions shall be by simple majority vote.

1. A decision concerning a petition for zoning shall be as follows:
  - a. Grant the zoning as requested; or,
  - b. Grant the zoning with a reduction in the area requested; or,
  - c. Grant the zoning to a more restrictive general zoning district; or,
  - d. Grant the zoning with a combination of b and c above; or,
  - e. Deny the zoning.
  
2. A decision concerning the petition to amend the text of this Ordinance shall be as follows:
  - a. Adoption of the amendment as written; or,
  - b. Adoption of the amendment as revised; or,
  - c. Rejection of the amendment.

**F. Rehearing**

1. An application for a rehearing shall be made in the same manner as provided for an original hearing within a period of fifteen (15) days after the date of the City Council decision.
2. Specific information to enable the City Council to determine whether or not there has been a substantial change in facts, evidence, or conditions in the case, shall be presented in writing or graphically.
3. A rehearing shall be denied by the City Council, if, in its judgment, such change in facts, evidence or conditions have not been proven.
4. A public hearing shall not be required to be held by the City Council to consider holding such a rehearing. Approval of said consideration shall, however, require an affirmative vote of at least four (4) voting members.
5. Upon the denial of an original application, or upon the denial of an application from which a rehearing has been conducted, a similar application may not be filed for a period of one year after the date of denial of the original application.

**G. Appeals:** Every legislative decision of the City Council shall be subject to review by the Superior Court Division of the General Courts of Justice of the State of North Carolina by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be duly verified and filed with the Clerk of Superior Court within thirty (30) days after the decision of the Council is filed in the office of the City Clerk, or after a written copy is delivered to every aggrieved party who has filed a written request for such copy with the Administrator at the time of the hearing of the case by the City Council, whichever is later.

**H. Petition Withdrawal**

1. The petitioner may withdraw the petition before submission of the public notice to the newspaper announcing the public hearing.
2. After submission of such notice, a petition may be withdrawn at the discretion of the City Council at the public hearing.
3. No more than two (2) withdrawals may occur on the same parcel or portion of land within a one (1) year period.
4. No petition shall be filed on the same parcel or portion of land within a one (1) year period after the date of the second withdrawal.

**15.20 Establishment of Local Historic District Overlays (LHO) and Historic Landmark Overlays (LHL)**

**A. Local Historic District Overlay Establishment**

1. The historic districts are established as districts which overlap and overlay existing zoning districts, the extent and boundaries of which are as indicated on the official zoning map for the City of Salisbury.
2. Local Historic Overlay districts, as provided for in this section, may from time-to-time be designated, amended, or repealed, provided; however, that no district shall be recommended for designation unless it is deemed to be of special significance in its historical, prehistorical, architectural, or cultural importance. Such districts must also possess integrity of design, setting, workmanship, materials, feeling, and/or association. No district shall be designated, amended, or repealed until the following procedure has been carried out.
3. All requests shall first be submitted to the Development Services Department with a complete application including a property inventory and historic analysis as required by the State Historic Preservation Office. The request may then be forwarded to the Historic Preservation Commission if deemed complete.
4. The Commission shall conduct a preliminary consideration of the forwarded request to determine the eligibility of the general area proposed to be designated as a Local Historic Overlay.
5. If the Commission determines, by majority vote, that the subject general area is eligible to become a Local Historic Overlay the process may move forward. An investigation report describing the significance of the buildings, structures, features, sites or surroundings included in any such proposed district, and a description of the boundaries of such district shall be forwarded to the Department of Natural and Cultural Resources, acting through the State Historic Preservation Officer or his or her designee. The state shall have made an analysis and recommendations concerning such report and description of proposed boundaries. Failure of the department to submit its written analysis and recommendations to the municipal governing board within 30 calendar days after a written request for such analysis has been received by the Department of Natural and Cultural Resources shall relieve the municipality of any responsibility for awaiting such analysis, and said board may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.
6. After response from the Department of Natural and Cultural Resources or 30 calendar days, the Commission shall determine whether to proceed with designation. At this time the Commission may develop design review standards or specify that the proposed new Local Historic Overlay would be subject to existing adopted Historic District Standards.

7. The Commission shall then schedule a public hearing where property owners within the proposed boundary area shall be notified of the meeting through first class mail, notice in a newspaper having general circulation in the area and zoning sign postings at the boundaries of the proposed new district. This meeting shall allow for public questions and comments.
8. The Commission shall prepare and submit a report and recommendation to the Planning Board for the Local Historic Overlay and new/existing governing standards for the subject area.
9. The Planning Board shall prepare and submit a report and recommendation to the City Council for the Local Historic Overlay and new/existing governing standards for the subject area.
10. City Council shall hold a public hearing and render a decision concerning establishment of the new Local Historic Overlay and governing standards.
11. If approved, the City of Salisbury shall then notify all property owners within the boundaries of the proposed district by first class mail. The Department of Natural and Cultural Resources shall also be notified of the decision.

**B. Local Historic Landmark Overlay Establishment**

1. Upon complying with the required landmark designation procedures set forth herein, the City Council may adopt and from time-to-time amend or repeal an ordinance designating one or more Local Historic Landmark Overlays.
2. A property may be designated as one of the following Local Historic Landmark types:
  - a. **Local Historic Landmark – Property (LHL-P):** a building, structure, site, or object, which may or may not be listed on the National Register of Historic Places, and is an outstanding example of a historic resource and is intended to be recognized for its architectural integrity. In addition to documented special significance, these properties maintain the highest degree of integrity and are further recognized for their rarity among properties in Salisbury.
  - b. **Local Historic Landmark – Cultural (LHL-C):** is a building, structure, site, or object that is important to the culture and diversity of Salisbury which has affected the broad pattern of Salisbury history and come to represent a part of Salisbury’s cultural heritage for at least twenty-five (25) years. This category is tended to recognize those places that are not traditionally included in National Register or Local Historic District properties but nonetheless have attributed to cultural change in Salisbury.

**3. Criteria to Establish a Local Historic Landmark Overlay**

a. The following definitions of special significance and integrity, as established by the Secretary of the Interior’s Standards, shall be utilized when evaluating properties for both types of Local Historic Landmark Overlay.

**1. Special significance**

- a. Criterion A: Association with events that have made a significant contribution to the broad patterns of our history.
- b. Criterion B: Association with the lives of significant persons in our past.
- c. Criterion C: Embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction.
- d. Criterion D: Yield or may be likely to yield, information important in history or prehistory.

**2. Integrity**

- a. Location: Where the historic property was constructed or the place where the historic event occurred.
- b. Design: The combination of elements that create the form, plan, space, structure, and style of a property.
- c. Setting: The physical environment of a historic property.
- d. Workmanship: The physical evidence of the crafts of a particular culture or people during any given period in history or prehistory.
- e. Materials: The physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property.
- f. Feeling: The property’s expression of the aesthetic or historic sense of a particular period of time.
- g. Association: The direct link between an important historic event or person and a historic property.

**b. Criteria to Designate as a Local Historic Landmark – Property (LHL-P)**

- 1. The proposed property must be found to have special significance for its historical, prehistorical, architectural, or

cultural importance in at least one of the special significance criterion, as defined in this section.

2. The proposed property must be found to have integrity in all seven (7) aspects as defined in this section.

**c. Criteria to Designate a Local Historic Landmark – Cultural (LHL-C)**

1. The proposed property must be found to have special significance for its historical or cultural importance as defined in Criterion A or Criterion B as defined in this section.
2. The proposed property must be found to have integrity in location, setting, feeling, and association, as defined in this section.
3. Must meet at least one (1) of the following criteria:
  - a. The property represents a resource that greatly contributes to the character or image of a defined neighborhood or community area through either an association with a person or event;
  - b. Buildings or places which have come to represent a part of Salisbury’s cultural heritage for at least twenty-five (25) years;
  - c. Institutions that provide evidence of the cultural history of Salisbury, such as churches, universities, art centers, theatres, and entertainment halls, as well as stores, businesses, and other properties that provide a physical record of the experience of particular groups;
  - d. Markets and commercial structures or blocks which are important to the cultural life of Salisbury and groups of buildings, structures, and/or sites representative of, or associated with, particular social, ethnic or economic groups during a particular period.
4. No property shall be designated as a landmark until the following steps have been taken:
  - a. All private party requests shall first be submitted to the Development Services Department with a complete pre-application indicating which type of landmark is being pursued and the anticipated special significance and integrity criteria to be met.
  - b. The Commission shall conduct a preliminary consideration of the pre-application to determine the

eligibility of the general area to be designated as a Local Historic Landmark Overlay.

- c. If the pre-application is approved by the Historic Preservation Commission, in accordance with G.S. 160D-942, the Commission, shall make or cause to be made an investigation and report on the archaeological, historical, architectural, educational, or cultural significance of each building, structure, site, area, or object proposed for designation. The investigation and report shall then be forwarded to the Division or Archives and History, North Carolina Department of Cultural Resources.
- d. In accordance with G.S. 160D-946, the North Carolina Department of Cultural Resources shall be given the opportunity to review and comment upon the substance and effect of the designation of any historic landmark. Any comments shall be provided in writing. If the Department of Cultural Resources does not submit its comments within thirty (30) days following receipt by the Department of the investigation and report, the Commission and the Elected Body are relieved of any responsibility to consider such comments.
- e. The preservation commission and City Council shall hold a joint legislative hearing or separate legislative hearings on the proposed regulation. Notice of the hearing shall be made as provided by G.S. 160D-601.
- f. Following the hearings, City Council may adopt the regulation as proposed, adopt the regulation with any amendments it deems necessary, or reject the proposed regulation. Per G.S. 160D-945, the regulation shall describe each property designated in the regulation, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural, or prehistorical value, including the land area of the property so designated, and any other information the City Council deems necessary. For each building, structure, site, or object so designated as a landmark, the ordinance shall require that the waiting period set forth in G.S. 160D-949 be observed prior to its demolition. A suitable sign for each property

designated as a landmark may be placed on the property at the owner's consent; otherwise the sign may be placed on a nearby public right-of-way.

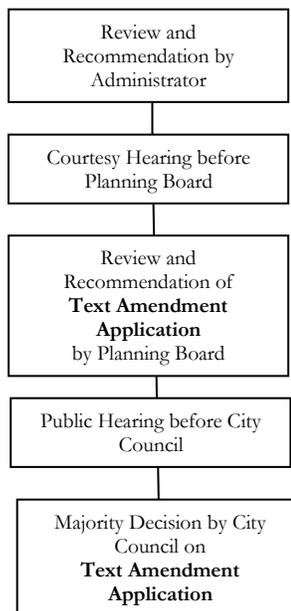
5. Upon adoption of the Local Historic Landmark Overlay Designation ordinance, the following provisions shall apply:
  - a. The owners and occupants of each designated Historic Landmark Overlay shall be given written notification of such designation by Commission staff within a reasonable time. The Department of Natural and Cultural Resources shall also be notified of the decision.
  - b. One copy of the ordinance and each amendment thereto shall be kept on file in the office of the Rowan County and City of Salisbury's Clerk's office, and made available for public inspection at any reasonable time.
  - c. The fact that a building, structure, site, or object has been designated as a Local Historic Landmark shall be clearly indicated on all tax maps maintained by Rowan County and the City of Salisbury for such period as the designation remains in effect.
  - d. The Commission shall give notice of the adoption of a designation ordinance and any amendment thereof to the Rowan County Tax office. The designation and any recorded restriction upon the property limiting its use for preservation purposes shall be considered by the Tax office in appraising the property for tax purposes.

#### 15.21 Text Amendments

- A. **Purpose:** The purpose of this Section is to establish uniform procedures for amending the text of the Ordinance or Comprehensive Plan.
- B. **Application Required:** An amendment to the text of this Ordinance or the Comprehensive Plan may be initiated by the City Council, the Planning Board, the Administrator, or any private citizen by filing an application with the Administrator.

**C. Procedure:**

APPLICATION	REVIEWING AUTHORITY	ACTION TO BE TAKEN	APPEAL PROCESS
Text Amendment	Technical Review Committee (TRC)	Review submittal procedures and requirements Review for completeness Issue Staff Report and recommendation	n/a
	Planning Board	Courtesy hearing	n/a
	Planning Board	Review and recommendation of Text Amendment application	n/a
	City Council	Public hearing	n/a
	City Council	Text Amendment Adoption – or – Denial and Request for Rehearing	Superior Court

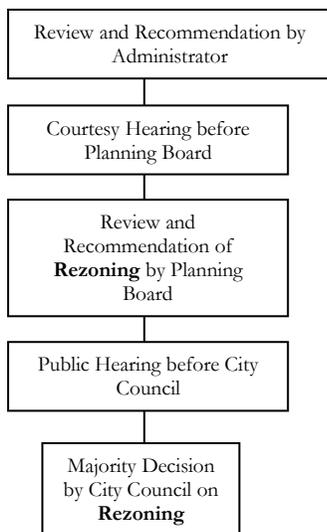


15.22 Map Amendments (rezonings)

- A. **Purpose:** The purpose of this Section is to establish uniform procedures for amending the zoning classification of land as shown on the Land Management and Development Map (the official zoning map).
  
- B. **Petition Required:** An amendment to the Official Zoning Map may be initiated by the City Council, the Planning Board, the Administrator, or any private citizen by filing a petition with the Administrator. In accordance with G.S. 160D-601, no amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the local government. For purposes of this section, “down-zoning” means a zoning ordinance that affects an area of land in one of the following ways:
  - (1) By increasing the development density of the land to be less dense than was allowed under its previous usage.
  - (2) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

C. Procedure:

APPLICATION	REVIEWING AUTHORITY	ACTION TO BE TAKEN	APPEAL PROCESS
Map Amendments (rezonings)	Administrator	Review submittal procedures and requirements Review for completeness & code compliance. Issue Staff Report and recommendation	n/a
	Planning Board	Courtesy hearing	n/a
	Planning Board	Review and recommendation of Rezoning application	n/a
	City Council	Public hearing	n/a
	City Council	Grant Rezoning – <b>or</b> - Denial and Request for Rehearing	Superior Court



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### 15.23 Conditional Districts

- A. **Purpose:** The Conditional District (CD) is a floating overlay zoning district that exempts specific Ordinance provisions so as to encourage innovative design. Although not measured against all provisions of this Ordinance, the City will review CD development in light of all applicable, adopted plans and policies in order to provide greater certainty as to the resulting project.

The Conditional District is an alternative zoning process that may permit a mixture of land uses and alternative development standards as may be required to address the unique characteristics of an individual property through a Master Plan. The plan shall be designed such that, at a minimum, the location, integration and arrangement of land uses, buildings, structures, utilities, access, transit, parking, and streets collectively yield a context sensitive development. The CD is not intended to relieve hardships that would otherwise be handled using a variance procedure; rather, the CD is intended as a means of accommodating design innovation and market expectations.

When designing a CD Master Plan, the following chapter and/or section provisions are not applicable. The Master Plan may identify any alternatives to those provisions but when a plan is not providing an alternative, the following provisions shall remain applicable.

1. Sections 2.4.D: District Provisions
2. Sections 5.5 through 5.17 of Building Types and Standards
3. Sections 4.8, 4.10: Subdivisions and Infrastructure
4. Chapter 10: Parking
5. Chapter 11: Lighting

B. **General Requirements:**

1. **Case Management:** The Administrator, or their designee, shall assign a case number to all Conditional Districts for processing and permanent tracking. Following original approval of the case, any and all changes to the plan shall be considered modifications to the original plan and shall be processed under the original case number. Any approved modifications shall fully replace the original approval. Concurrently-approved plans for the same property or properties are prohibited.
2. **Petitioner:** A petition to adopt or amend a CD shall be submitted by the current owner(s), or their duly-authorized representative(s), of all property to be included. An application to revise an existing CD Master Plan shall also be submitted by the current owner(s) of all property, or their duly-authorized representative(s), included in the adopted Conditional District overlay. A CD shall consist of land under unified control which may be planned and developed as a single development or as an approved programmed series of development phases by multiple developers. "Unified control" means that all land to be included within a CD shall be owned or otherwise under the legal control of the person or legal entity which has petitioned for a Conditional District. Such person or entity shall be legally capable of providing a commitment to the city

that the CD development will comply with all documents, plans, standards and conditions ultimately approved by the City.

**3. Content of Petition:**

- a. A Conditional District shall consist of the CD Master Plan and any other plans, drawings, renderings, elevations, maps and documents specifically included as development documents for approval by the City Council. The Master Plan, as a site specific conditional zoning plan, is itself a condition of the Conditional District rezoning.
- b. **Master Plan:** The development concept of all land areas encompassed by a Conditional District shall be adequately described by a Master Plan comprised of scaled drawings and associated reports in accordance with the Development Plan Requirements of Section 16.4.
- c. In addition to the Master Plan, the petitioner shall provide the exact land uses proposed for the Conditional District. Such uses may be selected from any of the uses, whether permitted by right or conditional, allowed in the underlying base zoning district that is coupled with the Conditional District petition. Uses not otherwise permitted within the underlying base zoning district shall not be permitted within the Conditional District.

**4. District Uses & Standards:** Within an approved Conditional District, no use shall be permitted except in accordance with the underlying base district, base district provisions, and pursuant to the conditions imposed on the Conditional District in the approval of the rezoning.

**5. Fair and Reasonable Conditions:** As permitted by Sec. 15.21.A.1-5 the provisions of the approved CD Master Plan shall replace all conflicting development regulations set forth in this Ordinance which would otherwise apply to the development site. The Planning Board may recommend and the City Council may attach reasonable and appropriate conditions including, but not limited to, the location, nature, hours of operation, and extent of the proposed use(s). Conditions and site-specific standards shall be limited to those that address conformance of the development and use of the site to this Ordinance and officially adopted plans and those standards and conditions that address the impacts reasonably expected to be generated by the development and use of the site. The applicant will have a reasonable opportunity to consider and respond to any additional requirements proposed by either the Planning Board or the City Council prior to final action. The applicant and property owner must consent in writing to any conditions (G.S. 160D-703).

**6. Decisions:** Decisions by the City Council shall be by simple majority vote (G.S. 160A-75).

**C. Ability to Proceed:** The applicant may proceed with development after adoption of the Conditional District Master Plan and ordinance, all construction documents, and recordation of any applicable plat with the Rowan County Register of Deeds. The

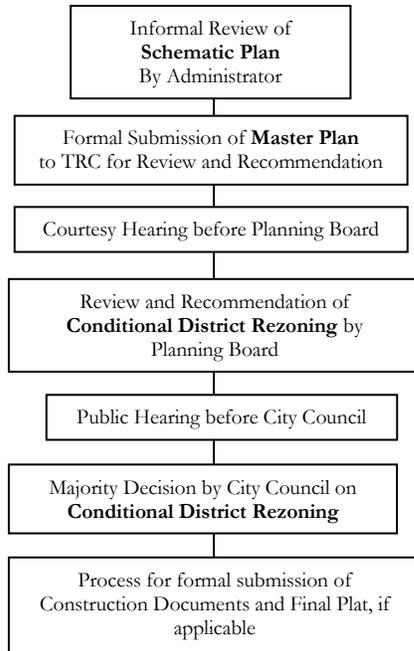
development and use of all land within the Conditional District shall be in keeping with the approved Master Plan and all applicable provisions therein.

- D. Final Approval by Stages:** If so reflected on the Master Plan, the City Council may allow the staging of development. Each phase of development shall adhere to all applicable provisions and standards of this ordinance and the applicable CD Master Plan.
- E. Amendments:** An amendment to a CD is a petition to rezone and newly adopt a CD Master Plan and ordinance with any new conditions or site-specific standards, and requires consideration by both Planning Board and City Council. The following eight circumstances have the potential for significantly altering the basic development concept or intent of the originally-approved plan and shall require an amendment:
1. Land area being added or removed from the Conditional District.
  2. Modification of any conditions, site-specific standards, design standards, or other requirements specified by the Conditional District ordinance.
  3. A change in land use or development type beyond that permitted by the Conditional District ordinance.
  4. When there is introduction of a new vehicular access point to an existing street, road or thoroughfare not previously designated for access.
  5. When there is an increase in the total number of residential dwelling units originally authorized by the Conditional District ordinance.
  6. When the total floor area of a commercial or industrial classification is increased more than ten percent (10%) beyond the total floor area originally authorized by the Conditional District ordinance.
  7. When City Council mandates their consideration and approval, as a condition of approval, if any change or variation is proposed to the CD Master Plan and Conditional District ordinance.
  8. When the Planning Board considers a revision significant and recommends City Council consideration and approval.
- F. Revisions:** A revision to a CD is an application to revise an existing, approved CD Master Plan, and requires consideration by the Planning Board or the Technical Review Committee (TRC), depending on the application.
1. **Planning Board Revisions:** Revisions requiring Planning Board consideration are those that do not alter the basic development concept as an amendment does; instead, they are changes to the approval CD Master Plan that may alter the project site due to final engineering or field conditions.

- a. **10% Rule:** Notwithstanding those changes that trigger an amendment, changes to numbered items, including but not limited to landscaping points, lighting fixtures, and parking spaces, by 10% or more shall receive Planning Board consideration. However, the Planning Board liaison to the TRC may keep a change at the TRC level if the 10% or more change appears insignificant for Planning Board consideration.
  - b. **Interconnectivity:** Changes that propose to remove or add a point of interconnectivity between private properties shall receive Planning Board consideration.
2. **Technical Review Committee Revisions:** Revisions requiring TRC consideration are those that insignificantly alter or rearrange the project site due to final engineering or field conditions.
- a. **10% Rule:** Notwithstanding those changes that trigger an amendment or revision to the Planning Board, changes to numbered items, including but not limited to landscaping points, lighting fixtures, and parking spaces, by less than 10% shall receive TRC consideration.
  - b. **Arrangement:** Rearrangement, with no net loss or gain, of any item on an approved CD Master Plan shall receive TRC consideration.
  - c. When the TRC considers a revision significant enough for Planning Board consideration, the TRC or the Planning Board liaison may send it to the Planning Board for their consideration.
  - d. Appeals to TRC decisions on CD Master Plan revisions shall be heard by the Planning Board through a quasi-judicial process
- G. **Rescission of Conditional District for Non-Development:** The petitioner shall secure a valid building or construction permit(s) within a 24-month period from date of approval of the Conditional District unless otherwise specified. If a valid building or construction permit is not in place at the end of the 24-month period, the Administrator shall notify the petitioner. Within sixty (60) days of notification, the Administrator shall make a recommendation concerning the rescission of the Conditional District to the City Council. The City Council may then rescind the Conditional District and revert to the previous base zoning, or extend the life of the Conditional District for a specified period of time.

**H. Procedure:**

<b>APPLICATION</b>	<b>REVIEWING AUTHORITY</b>	<b>ACTION TO BE TAKEN</b>	<b>APPEAL PROCESS</b>
Schematic Plan (16.3)	Administrator	For Non-Binding Review Only	n/a
Conditional District Rezoning w/ Master Plan (16.4)  (Master Plan may act as Preliminary Plat)	Technical Review Committee (TRC)	Review submittal procedures and requirements Review for Completeness & Ordinance Compliance Issue Staff Report and recommendation	n/a
	Planning Board	Courtesy hearing	n/a
	Planning Board	Review and recommendation of Conditional District petition	n/a
	City Council	Public hearing	n/a
	City Council	Adopt Conditional District - <b>or</b> - Denial and Request for Rehearing	Superior Court
Construction Documents (16.5)	Administrator	Review for Completeness & Ordinance Compliance Development Permit Issued - <b>or</b> - Denial and Request for Resubmission	Board of Adjustment
Final Plat (16.6 & 16.7) (if applicable)	Administrator	Review for Completeness & Ordinance Compliance Final Plat Issued - <b>or</b> - Denial and Request for Resubmission	Board of Adjustment



**15.24 Future Land Use Map Amendments**

- A. Purpose:** The purpose of this Section is to establish uniform procedures for amending the place type classification of land as shown on the Future Land Use Map of the Comprehensive Plan.
- B. Petition Required:** An amendment to the Official Future Land Use Map may be initiated by the City Council, the Planning Board, the Administrator, or any private citizen by filing a petition with the Administrator.
- C. Procedure:**

APPLICATION	REVIEWING AUTHORITY	ACTION TO BE TAKEN	APPEAL PROCESS
Future Land Use Map Amendments	Administrator	Review submittal procedures and requirements Review for completeness. Issue Staff Report and recommendation	n/a
	Planning Board	Courtesy hearing	n/a
	Planning Board	Review and recommendation of application	n/a
	City Council	Public hearing	n/a
	City Council	Grant Map Amendment – <b>or</b> - Denial and Request for Rehearing	Superior Court



### 15.25 Vested Rights

- A. General Procedures:** Pursuant to G.S. 160D-108 and notwithstanding any other provision or amendment, a landowner may apply for approval of a Site-Specific Vesting Plan as defined in the statute that shall entitle said landowner to develop property in accordance with the previously approved plan.

All requests for Vested Rights shall be accompanied by a copy of the approved Site-Specific Vesting Plan (Master Plan), as defined by the NC General Statutes, in accordance with the provisions of this Chapter. A request to extend Vested Rights to a previously approved Site-Specific Vesting Plan shall be reviewed and approved by the City Council after notice and public hearing.

- B. City Council Action:** The City Council shall determine whether or not to grant or establish a vested right. The City Council may not require the landowner to waive his vested right as a condition of development approval. The City Council may approve the vested rights for a period greater than two (2) years where it is found that due to (i) the sizing and phasing of the development; (ii) the level of investment; (iii) the need for the development; (iv) economic cycles; or (v) market conditions, building permits for all phases of the development cannot be secured within two years, provided the total period does not exceed five (5) years from the date of plan approval of the site.

- C. Effect of Approval of Vesting:** The effect of the City Council approving a vested plan shall be to vest such site plan for a period of two (2) years to five (5) years as approved by the City Council from the date of approval.

A vested right shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the approved site-specific development plan as provided for in this Section. Failure to abide by the terms and conditions placed upon such approval will result in the forfeiture of the previously granted or established vested right.

A vested right, once established, shall preclude any zoning action by the City which would change, alter, impair, prevent, diminish or otherwise delay the development or use of the property in accordance with the approved Site-Specific Vesting Plan except under the following conditions where such rights are terminated and revoked:

1. The affected landowner provides written consent to the City of his desire to terminate the vested right; or,
2. The City determines after having advertised and held a public hearing, that natural or man-made hazards exist on or in the immediate vicinity of the property which pose a serious threat to the public health, safety and welfare if the project were to proceed as indicated in the plan; or,

3. Compensation is made by the City to the landowner for all costs, expenses, and other losses incurred including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and any other consultant's fees incurred after approval together with interest thereon at the legal rate until paid; or,
4. The City determines, after having advertised and held a public hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the City Council of the plan; or,
5. Upon the enactment of a State or Federal law or regulations which precludes development as shown in plan. In such case the City may, after having advertised and conducted a public hearing, modify the affected provisions upon a finding that this change in State or Federal law has a fundamental effect on the plan.

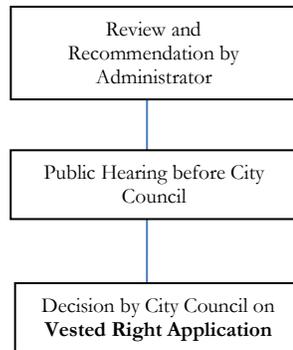
Once a vested right is granted to a particular plan, nothing in this section shall preclude the City from conducting subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided such reviews and approvals are consistent with the original approval.

The establishment of a vested right on a piece of property for a Site-Specific Vesting Plan shall not preclude the City from establishing and enforcing on the property any additional regulations (adopted during the time the vested right was in effect) which are general in nature and applicable to all property subject to the regulations of this Ordinance.

- D. Establishment of Common Law Vesting Plans:** Previously approved Site-Specific Vesting Plans shall be reviewed for compliance and consistency and subsequently approved by the Administrator or designee in accordance with the provisions of this Chapter, providing the proposed Construction Documents for the Site Plan or Subdivision do not deviate from, and is subdivided/developed in accordance with the previously approved site specific plan. Substantial financial investment shall be determined and a good faith effort made to develop proportionate to the approved statutory vested plan.
- E. Revocation or Expiration of a Vested Right:** The vested right, resulting from the approval of a Site-Specific Vesting Plan, may be revoked by the City Council if the City Council determines that the landowner has failed to comply with the terms and conditions of the approval or with any other applicable portion of this Ordinance. As prescribed under the provisions of G.S. 160D-108, the vested right shall otherwise expire at the end of the approval period established by the City Council. A building permit issued by the Rowan County Building Inspector pursuant to G.S. 160D-1110 may not expire or be revoked because of the running of time on a piece of property while a plan has been approved and the vested right period has not otherwise expired.

F. Procedure:

APPLICATION	REVIEWING AUTHORITY	ACTION TO BE TAKEN	APPEAL PROCESS
Vested Right Application w/Master Plan (16.4)	Administrator	Review submittal procedures and requirements Review for completeness & code compliance. Issue Staff Report	n/a
	City Council	Public hearing	n/a
	City Council	Grant Vested Right Application – <b>or</b> - Denial and Request for Rehearing	Superior Court



### 15.26 Transportation Impact Analysis

- A. Transportation impact analyses shall be required for a rezoning, subdivision plan, site plan, special use permit, certificate of zoning compliance, or preliminary plat for developments with an estimated trip generation of 3000 vehicles per day or greater as defined in Section 9.8.A.
  
- B. **Procedures:**
  - 1. The applicant shall consult with the City Traffic Engineer to determine if a transportation analysis is necessary and its associated parameters.
  - 2. The report shall be submitted to the City Traffic Engineer for distribution to staff and related roadway jurisdictions. The City Engineer shall notify the applicant if additional studies or analysis are necessary.
  - 3. Once a report is determined to be complete, a finding shall be made by the Administrator on the transportation impact analysis. Proceedings on any application that were stayed pending completion of traffic analysis may resume.
  
- C. **Report Findings:** If a proposed development does not meet the applicable service level standards, one or more of the following actions may be necessary:
  - 1. Reduce the size, scale, scope, or density of the development to decrease traffic generation.
  - 2. Divide the project into phases, and identify specific infrastructure that shall be completed as a prerequisite to specific phases.
  - 3. Dedicate right-of-way for street improvements;
  - 4. Construct new streets;
  - 5. Expand the capacity of existing streets;
  - 6. Redesign ingress and egress to the project to reduce traffic conflicts;
  - 7. Alter the use and type of development to reduce peak hour traffic;
  - 8. Eliminate the potential for additional traffic generation from undeveloped properties in the vicinity of the proposed development;
  - 9. Integrate transit and non-motorized mode (i.e. pedestrian and bicycle) design improvements to reduce trip generation;
  - 10. Recommend denial of the application for which the TIA is submitted.

**15.27 Stormwater Permit**

- A. **Storm Water Permit Required:** A storm water permit is required for all development and redevelopment unless exempt pursuant to the Phase II Stormwater Ordinance, Section 9.7. A permit may only be issued subsequent to a properly submitted and reviewed permit application, pursuant to this section.

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