

CHAPTER 1108

BOARD OF ZONING APPEALS

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1108.01 BOARD OF ZONING APPEALS ESTABLISHED

There shall be a Board of Zoning Appeals which shall have the power and duties prescribed within the Codified Ordinances of the City of Kent, and specifically within this [Unified Development Ordinance](#).

1108.02 POWERS AND DUTIES

- A. Appeals. The Board of Zoning Appeals shall hear and determine all appeals from any decision or action of the [Community Development Director](#) ~~Zoning Inspector~~ in the administration or enforcement of the Unified Development Ordinance. The Board of Zoning Appeals shall hear and determine all appeals from the refusal of the [Community Development Director](#) ~~Zoning Inspector~~ or Planning Commission to issue zoning certificates or Conditional [Use Zoning](#) Certificates. The Board may decide appeals by reversing or affirming, wholly or in part, or by modifying such decision, action, [determination](#), or refusal, [and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the Board of Zoning Appeals shall have all the powers of the officer or agency from whom the appeal is taken.](#)
- B. Variances.
1. When practical difficulties, unnecessary hardship or results inconsistent with the general purpose of the [Unified Development Ordinance](#) result through the strict and literal interpretation and enforcement of the provisions thereof, the Board shall have the authority to grant upon such conditions as it may determine, such variances from the provisions of the [Unified Development Ordinance](#) as may be in harmony with its general purpose and intent, so that the spirit of the [Unified Development Ordinance](#) shall be observed, public safety, health and welfare secured and substantial justice done. The Board may grant a variance as applied for or a variance constituting a modification thereof. In granting a variance, the Board may attach thereto such conditions relating to the location of the proposed structure or use, or the duration of the variance as it may deem necessary in order to further the purposes of the [Unified Development Ordinance](#). The Board may require such evidence and guarantee or bond as it may deem necessary to insure that all such conditions so attached are being and will be complied with.
 2. The Board shall not have the authority to authorize, through the granting of a variance, a change in the use of any parcel of land.
 3. The Board is not empowered to change the zoning classification for any zone district, but may in such instances as desired initiate an amendment to the [Unified Development Ordinance](#) in accordance with [Article I \(General Provisions and Amendments\)](#).
- C. Interpretation - The Board of Zoning Appeals shall, upon application filed as ~~hereinafter~~ provided [in Chapter 1160](#), have the power to hear and decide any question involving the interpretation of any provision of the [Unified Development Ordinance and/ or the Zoning Map](#), including a determination of the exact location of any [lot lines or](#) district boundary if there is uncertainty with respect thereto. In considering an interpretation of the Zoning District Map, the Board shall give due regard to the nature and conditions of all adjacent uses and structures as well as the public interest.

1108.03 COMPOSITION AND APPOINTMENT

- A. Composition - The Board of Zoning Appeals shall consist of five (5) members appointed by City Council. The members of the Board shall be residents of the City and shall serve without compensation.
- B. Appointment - All appointments made subsequent to those described in subsection (a) hereof shall be for a period of three (3) years. A member serving on the Board at the time of the official adoption of this Ordinance may complete the term of their original appointment, but in the event of the death or resignation of such member, Council shall fill the vacancy for the unexpired portion of the term of that member.
- C. Removal of Members. Any member absent without excuse from three (3) consecutive meetings or four (4) meetings within any single calendar year may be referred, by majority vote of the Board, to Kent City Council for its consideration to remove such member from the Board. An unexcused absence shall be defined as one in which a member is absent from an announced meeting and has not contacted the Community Development Department to report the pending absence prior to that meeting.

1108.04 OFFICERS

- A. The officers of the Board of Zoning Appeals shall consist of a Chairperson, Vice-Chairperson, and a Secretary elected [from its membership](#).
- B. The Chairperson shall be the presiding officer over regular business meetings as well as any special meetings called by the Board. The Chairperson shall perform the following duties for the Board:
 - 1. The Chairperson shall [promptly](#) open the meeting at the appointed time by taking the chair, determining that a quorum is present, and calling the meeting to order.
 - 2. The Chairperson shall announce the sequence of the order of business to take place at the meeting based on the agenda previously set for the meeting.
 - 3. The Chairperson shall recognize both members of the Board and audience participants who are entitled to the floor.
 - 4. The Chairperson shall state and put to a vote all actions and questions that legitimately come before the Board.
 - 5. The Chairperson shall protect the meeting from obviously frivolous or irrelevant motions or discussions.
 - 6. The Chairperson shall be responsible for maintaining order during the meeting.
 - 7. The Chairperson shall make every effort to expedite the progression of business to come before the Board, keeping in mind the rights of members and the audience participants.
 - 8. Whenever necessary, the Chairperson shall authenticate by signature all acts, motions, orders or approvals of the Board.
 - 9. The Chairperson shall declare the meeting adjourned or in recess when the Board so decides and shall declare the [time and](#) date of continuation when a matter of business is carried over.
 - 10. The Chairperson may appoint special ad hoc committees from within the Board for the purpose of making special studies or reports which may be of benefit to the Board in its conduct of business.
- C. The Vice-Chairperson shall act for the Chairperson in the [event the Chairperson is absent from a meeting or the seat is vacant](#).
- D. The Secretary shall be responsible for ensuring that the [Community Development Director](#) ~~Zoning Inspector~~ properly prepares and circulates an agenda to all members as well as others having a specific interest in the meeting. The Secretary shall be responsible for ensuring that proper records are maintained by the [Community Development Director](#) ~~Zoning Inspector~~ pertinent to all official Board business. The Secretary

shall act as the Chairperson in the event that both the Chairperson and Vice-Chairperson are absent from a meeting or their seats are vacant.

- E. Election of Officers. The Board of Zoning Appeals shall elect officers at its first meeting of the Board in each calendar year by a majority vote of the membership of the Board.
1. In the event of a vacancy on the Board at its first meeting in the calendar year, the Board shall postpone the election of officers until the first regular business meeting after the City Council appointments to replace all vacant seats on the Board becomes official.
 2. In the event that any standing officer on the Board resigns, is removed, or takes leave from membership on the Board for any reason, the Board shall elect a replacement to that office at its next regular meeting.
- F. Officer Term of Office. Officers shall serve a one (1) year term and may be re-elected to an unlimited number of terms as long as membership is maintained on the Board.
- G. Removal of Officers. Any officer may be removed from office by a vote of four of the five members of the Board.

1108.05 MEETINGS

- A. Regularly Scheduled Meetings. The Board of Appeals shall hold one regular business meeting each month on the third (3rd) Monday of the month, except when a legal holiday falls on this day. In the event the third (3rd) Monday of the month is a legal holiday, the meeting will be scheduled for the next Monday of the month which is not a legal holiday. In the event that no agenda has been established for a particular meeting, the meeting may be canceled.
- B. Special Meetings. The Board of Zoning Appeals may schedule special meetings as it deems necessary. Such meetings shall be set by a majority vote of the Board and shall be set at least 48 hours prior to the date and time of the meeting.
- C. Notice of Meetings. All meetings of the Board of Appeals shall be open to the public. The Community Development Director ~~Zoning Inspector~~ shall give notice to property owners and cause notice to be printed in the local newspaper as so specified in Section XXX [currently Section 1115.11(a)].
- D. Meeting Agenda. The Community Development Director ~~Zoning Inspector~~ shall prepare an agenda and related materials for each meeting and be responsible for circulating these materials to all Board members as well as others having a specific interest in the meeting. The Board shall consider each agenda item in the order that it has been presented on the agenda (unless it is changed by a majority vote of the Board or has been tabled by request of the applicant pursuant to Paragraph (f)(3)B. below.
1. The agenda shall be closed ten (10) calendar days prior to the meeting ~~but this does not preclude the addition of other items. No item may be added to the agenda less than forty-eight (48) hours prior to the time of the meeting.~~
 2. An agenda of the upcoming meeting shall be posted at City Hall and be distributed to Board members, City Council, the media, and other persons having a specific interest in the business of the meeting approximately seven (7) days prior to the date and time of the meeting. Any later revisions or addenda to this agenda will be distributed to the same at the time of change or as soon as time will permit.
 3. In the event that a Special Meeting of the Board is called less than seven (7) calendar days in advance of its date and time, the Chairperson shall announce and thereby set the agenda for the Special Meeting at the time that the meeting is called. In all other cases, the agenda shall be prepared and distributed as specified above.
- E. Quorum. The presence of three members of the Board of Appeals shall constitute the minimum number necessary to transact business or render legitimate any actions voted on or taken by the Board. ~~A majority~~

~~of the membership of the Board shall constitute a quorum. This will also be the number of affirmative votes necessary to transact business.~~

1. **Prior to Call to Order.** A meeting shall not be called to order without a quorum. In the event that a quorum is not present at that time, the Chairperson may wait a reasonable amount of time before deciding that the meeting be canceled due to lack of a quorum. Should this happen, agenda items shall be rescheduled to the next regular business meeting.
 2. **Loss of Quorum.** If during the course of a meeting the number of Board members present is less than three, the meeting shall be adjourned by the Chairperson for lack of a quorum. Should this happen, remaining agenda items shall be rescheduled to the next regular business meeting.
- F. **Voting.** The Board shall transact all business by an affirmative vote of no less than three members of the Board. ~~Affirmative votes cast by a majority of the membership of the Board shall be necessary to transact business.~~
1. All members and officers may participate in any discussion and shall be voting members of the Board.
 2. Members may shall abstain in the event that there is a personal conflict of interest and shall be responsible for explaining the validity of the nature of the conflict of interest.
 3. Should a meeting be called to order with only three (3) members present, the Chairperson shall ask each case applicant if they understand the consequences of this number as they may pertain to the conduct of a vote on the applicant's request. Each applicant shall verbally choose to either:
 - a. Proceed with consideration of the case as requested; or
 - b. Have the consideration of the case tabled until the next regular business meeting.
- G. **Meeting Minutes.** The Community Development Director ~~Zoning Inspector~~ shall keep minutes of Board proceedings showing the vote of each member upon each question, or if absent or failing to vote, showing such fact.
- H. **Records, Files, and Transcripts.** The Community Development Director shall maintain all records and files of the Board of Appeals examinations and other official actions in the office of the Community Development Department, all of which shall be a public record open to the public during regular City Hall business hours. Such information shall include meeting agendas, applications, case files, meeting minutes, resolutions or actions by the Board as well as correspondence.

1108.06 WITNESSES

The Chairman of the Board of Zoning Appeals may direct the Law Director or his/her designee to administer oaths and compel by issuance of a subpoena, the attendance of witnesses in all matters coming within the purview of the Board and take testimony of any and all persons appearing before the Board.

1108.07 PROCEEDINGS

The Board of Zoning Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact and the Board shall keep records of its official actions which shall be filed in the Office of the Community Development Department ~~Zoning Inspector within ten (10) days and the same shall be a public record.~~

1108.08 PLANNING COMMISSION REVIEW

The Board of Zoning Appeals may request in writing an advisory opinion from the Planning Commission on any question. The Commission shall submit a written report to the Board of such advisory opinion within thirty (30) days of its receipt of such request.

1108.09 ADDITIONAL RESPONSIBILITIES

The Board of Zoning Appeals shall also serve as the Property Maintenance Appeals Board pursuant to Chapter 1389.05 of the City of Kent Building Code (Title X). They shall have all the powers and duties prescribed therein, and shall hear appeals of violations regarding the regulations and requirements established within the Exterior Property Maintenance Code (Chapter 1389 of the City of Kent Building Code).

CHAPTER 1107

PLANNING COMMISSION

- 1107.01 Planning Commission Established
 - 1107.02 Powers and Duties
 - 1107.03 Appointment and Terms
 - 1107.04 Officers
 - 1107.05 Meetings
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1107.01 PLANNING COMMISSION ESTABLISHED

- A. There shall be a Planning Commission which shall have the power and duties prescribed pursuant to the Kent City Charter §61(b) and this Unified Development Ordinance.
- B. The Planning Commission shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of the City Charter and this Unified Development Ordinance.

1107.02 POWERS AND DUTIES

- A. The powers and duties of the Planning Commission with respect to the administration of this Unified Development Ordinance shall include making recommendations to Council, approving or denying applications brought before it, and such other rights and powers granted to it by laws of the State of Ohio, the City Charter, or Ordinances of the City of Kent.
- B. ~~The Planning Commission may require additional plans and studies, the costs of which shall be born the applicant. The Planning Commission may control, appoint, or employ such architects, engineers or other professional service and may appoint such clerks, draftsmen or other subordinates as are necessary for the performance of its function. The expenditures for such service and employments shall be within the amounts appropriated for such persons by the legislative authority of the municipal corporation and such legislative authority shall provide for the expenses and accommodations necessary for the work of the Commission. [From City Charter]~~
- C. The Planning Commission may approve Conditional Use Certificates subject to conformance to this Unified Development Ordinance.
- D. The Planning Commission shall hear and decide on applications which require site plan review, in accordance with the provisions of this Unified Development Ordinance.
- E. The Planning Commission shall adopt such rules and requirements for plats, subdivisions, and the laying out of allotments as is deemed necessary and advisable, subject to City Council approval. Such rules and requirements shall be placed on file in printed or typewritten form in the Community Development office ~~of the Director of Public Service.~~
- F. The Planning Commission may hear and decide on an application for a change from one nonconforming use to another subject to the provisions of this Unified Development Ordinance.
- G. The Planning Commission shall consider all zoning amendments requested and forward recommendations concerning such requests to City Council.
- H. The Planning Commission may make studies and recommend to ~~the~~ City Council community development plans, goals, and objectives relating to the growth, development, and redevelopment of the City.
- I. The Planning Commission may develop and recommend to the Council policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.
- J. The Planning Commission may perform any other duties assigned by ~~the~~ City Council.

1107.03 APPOINTMENT AND TERMS

- A. **Composition.** As specified by the Kent City Charter §61(b), the Planning Commission shall consist of five (5) residents of the City appointed by Council who shall serve without compensation. ~~Council may also appoint ex-officio, non-voting members by ordinance.~~
- B. **Appointment.** A member of the Planning Commission serving on the effective date of this Ordinance may complete the term of his or her original appointment, but in the event of the death or resignation of such member, Council shall fill the vacancy for the unexpired portion of the term of that member. Subsequent appointments to the Planning Commission shall be for a term of five years and the expiration of the terms shall be on a one-year staggered interval basis.
- C. **Term Limits.** No one shall be appointed for more than two (2) full consecutive terms.
- D. **Removal of Members.** Any member absent without excuse from three (3) consecutive meetings or four (4) meetings within any single calendar year may be referred, by majority vote of the Commission, to Kent City Council for its consideration to remove such member from the Commission. An unexcused absence shall be defined as one in which a member is absent from an announced meeting and has not contacted the Community Development Department or another Commission member to report the pending absence prior to that meeting.

1107.04 OFFICERS

- A. **Duties of Officers.** The officers of the Planning Commission shall consist of a Chairperson, Vice-Chairperson, and Secretary elected from its membership.
 - 1. The Chairperson shall be the presiding officer over regular business meetings as well as any special meetings called by the Planning Commission.
 - a. The Chairperson shall promptly open the meeting at the appointed time by taking the chair, determining that a quorum is present, and calling the meeting to order.
 - b. The Chairperson shall announce the sequence of the order of business to take place at the meeting based on the agenda previously set for the meeting.
 - c. The Chairperson shall recognize both members of the Commission and audience participants who are entitled to the floor.
 - d. The Chairperson shall state and put to a vote all actions and questions that legitimately come before the Commission.
 - e. The Chairperson shall protect the meeting from obviously frivolous or irrelevant motions or discussions.
 - f. The Chairperson shall be responsible for maintaining order during the meeting.
 - g. The Chairperson shall make every effort to expedite the progression of business to come before the Commission, keeping in mind the rights of members and the audience participants.
 - h. Whenever necessary, the Chairperson shall authenticate by signature all acts, motions, orders or approvals of the Commission.
 - i. The Chairperson shall declare the meeting adjourned or in recess when the Commission so decides and shall declare the time and date of continuation when a matter of business is carried over.
 - j. The Chairperson may appoint special ad hoc committees from within the Commission for the purpose of making special studies or reports which may be of benefit to the Commission in its conduct of business.

2. The Vice-Chairperson shall act for the Chairperson in the event the Chairperson is absent from a meeting or the seat is vacant.
 3. The Secretary shall be responsible for ensuring that the [Community Development Director](#) ~~Zoning Inspector~~ properly prepares and circulates an agenda to all members as well as others having a specific interest in the meeting. The Secretary shall be responsible for ensuring that proper records are maintained by the [Community Development Director](#) ~~Zoning Inspector~~ pertinent to all official Commission business. The Secretary shall act as the Chairperson in the event that both the Chairperson and Vice-Chairperson are absent from a meeting or their seats are vacant.
- B. Election of Officers. Election of officers shall be held at the first meeting of the Commission in February by a majority vote of the membership.
1. In the event of a vacancy on the Commission at the first meeting in February, the Commission shall postpone the election of officers until the first regular business meeting after the City Council appointment to replace all vacant seats on the Commission becomes official.
 2. In the event that any existing officer position becomes vacant during the course of the year, the Commission shall elect a replacement officer to complete the term of office at the first regular business meeting after the City Council appointment to replace all vacant seats on the Commission becomes official.
- C. Officer Term of Office. Officers shall serve a one (1) year term and may be re-elected to an unlimited number of terms during their membership on the Commission.
- D. Removal of Officers. Any officer may be removed from office by a vote of four of the five members of the Commission.

1107.05 MEETINGS

- A. Schedule of Meetings. The Planning Commission shall hold meetings in keeping with the provisions of the Kent City Charter and this Unified Development Ordinance.
1. Meetings will be held on the first and third Tuesday of each month unless preempted by legal holidays.
 2. In the event that no agenda has been established for a particular meeting, the meeting may be canceled [in advance by the Community Development Director](#).
 3. [In the event it is determined that a quorum of members will not be available to attend a scheduled meeting, the meeting may be canceled in advance by the Community Development Director.](#)
- B. Special Meetings. The Commission may schedule special meetings as it deems necessary. Such meetings shall be set by a majority vote of the Commission and shall be set at least 48 hours prior to the date and time of the meeting and subject to the prescribed public notice provisions of paragraph (c).
- C. Public Notice of Meetings. [All meetings of the Planning Commission shall be open to the public.](#) Notice of all meetings and public hearings shall be given by the [Community Development Director](#) ~~Zoning Inspector~~ as prescribed in and subject to [Chapter 1139 \(Conditional Use Certificate\)](#), [Chapter 1112 \(Amendments\)](#), and [Chapter 1142 et.seq. \(Site Plan Review\)](#).
- D. Meeting Agenda. The [Community Development Director](#) ~~Zoning Inspector~~ shall prepare an agenda and related materials for each meeting and be responsible for circulating these materials to all members as well as others having a specific interest in the meeting. Business will be taken in the order in which it has been placed on the agenda. The agenda order may be changed at the pleasure of the Commission by way of a majority vote.
1. The agenda shall be closed seven (7) calendar days prior to the meeting but this does not preclude the addition of other items. No item may be added to the agenda less than twenty-four (24) hours

prior to the date of the meeting. In the event that no agenda has been established for a particular meeting, the meeting may be canceled.

2. An agenda of the upcoming meeting will be posted at City Hall and be distributed to Commission members, City Council, the media, and other persons having an interest in the meeting as soon as it becomes available. Late revisions will be distributed as soon as possible and practical.
 3. In the event that a special meeting is called less than seven (7) calendar days in advance of its date and time, the Chairperson shall announce and thereby set the agenda for the special meeting at the time that the meeting is called. In all other cases, the agenda shall be prepared and distributed as specified above.
- E. **Quorum.** The presence of three members of the Planning Commission shall constitute the minimum number necessary to transact business or render legitimate any actions voted on or taken by the Commission. ~~A majority of the membership shall constitute a quorum. This will also be the number of affirmative votes necessary to transact business.~~
1. **Prior to Call to Order.** A meeting shall not be called to order without a quorum. The Chairperson may wait a reasonable amount of time before deciding that the meeting will have to be canceled due to lack of a quorum. Should this happen, agenda items shall be rescheduled to the next regular business meeting.
 2. **Loss of Quorum.** If during the course of a meeting the number of Commission members present is less than three, the meeting shall be adjourned by the Chairperson for lack of a quorum. Should this happen, remaining agenda items shall be rescheduled to the next regular business meeting.
- F. **Voting.** The Commission shall transact all business by an affirmative vote of no less than three members of the Commission.
1. All members and officers of the Commission may participate in any discussion and shall be a voting member of the Commission.
 2. Should a meeting be called to order with only three (3) members present, the Chairperson will explain to the audience that a unanimous vote of those present will be required to transact business.
 3. Members ~~may~~ shall abstain in the event that there is a personal conflict of interest and shall be responsible for explaining the validity of the nature of the conflict of interest.
- G. **Meeting Minutes.** The ~~Community Development Director~~ ~~Zoning Inspector~~ shall keep minutes of Commission proceedings showing the vote of each member upon each question, or if absent or failing to vote, showing such fact.
- H. **Records, Files, and Transcripts.** The Community Development Director shall maintain all records and files of the Planning Commission examinations and other official actions in the office of the Community Development Department, all of which shall be a public record open to the public during regular City Hall business hours. Such information shall include meeting agendas, applications, case files, meeting minutes, resolutions or actions by the Planning Commission as well as correspondence.

CHAPTER 1140 PUBLIC HEARINGS

1140.01	Requests to be Heard Expeditiously
1140.02	Public Notice
1140.03	Professional Staff Report
1140.04	Legislative Hearings
1140.05	Administrative Hearings
1140.06	Record of Proceedings
1140.07	Written Decision
1140.08	Burden of Presenting Evidence; Burden of Persuasion

1140.01 REQUESTS TO BE HEARD EXPEDITIOUSLY

All applications, appeals, and requests which require hearings, as established in this Unified Development Ordinance, shall be heard and decided by the presiding authority as expeditiously as possible, consistent with the need to follow regularly established agenda procedures, provide notice in accordance with Chapter 1140.02 (Public Notice), and obtain the necessary information to make sound decisions.

1140.02 PUBLIC NOTICE

A. Public Notice Regarding Legislative Hearings. Public notice of such hearing legislative hearings shall be publicized by the Community Development Director in the following manner:

1. In all cases, by at least one publication of the time and place of such hearing in a newspaper of general circulation in the City at least thirty (30) days prior to the hearing date. Such notice shall reasonably apprise the public of the time and place of the hearing; the essence of the amendment to be adopted; the location where the text of the ordinance, together with the maps or plans, and report submitted by the presiding authority is to be on file for public examination; and include a statement that opportunity will be afforded to any person interested to be heard.
2. Supplemental written notice of legislative hearings pertaining to the amendment of a zoning district(s) on the Zoning District Map rezoning or redistricting of ten (10) or fewer parcels of land shall be mailed by the Zoning Inspector City Clerk by certified first class mail at least fifteen (15) twenty (20) days before the date of the legislative public hearing to the owners of property within and contiguous to and directly across the street from any part of the defined area to be amended or 500 feet from such area, whichever is greater. The addresses of such owners shall be those that appear on the County Auditor's current tax list or the Treasurer's mailing list at the time the application is made. The notice shall include: the time and place of the hearing; an indication to such owners of the change in zoning to be considered by the Commission at the hearing on the proposed amendment; the location where the text of the ordinance, together with the maps or plans, and report submitted by the Planning Commission is to be on file for public examination; and include a statement that opportunity will be afforded to any person interested to be heard.

B. Public Notice Regarding Administrative Hearings. Public notice of administrative hearings shall be publicized by the Community Development Director in the following manner:

1. The date, time and place of the Board of Zoning Appeals' public administrative hearing along with a reasonable identification of the project that is the subject of the application or appeal, and a brief description of the action requested or proposed involving the review of the request for a variance and/or appeal shall be published in each of the following ways:
 - a. Once in a newspaper of general circulation in the City at least fifteen (15) days prior to the date of the Public Hearing.

- b. Written notice of the hearing shall be mailed ~~by the Zoning Inspector~~ by certified first class mail at least fifteen (15) days before the date of the administrative public hearing to the appellant or applicant, the owners of property within and contiguous to and directly across the street from any part of the property or 200 feet from the property, whichever is greater, and the addresses of such owners shall be those as appear on the Portage County Auditor's current tax list ~~or the Treasurer's mailing list at the time the application is made. The notice shall include an indication to such owners the nature of the variance and/or appeal being requested by the applicant.~~
 - c. The applicant shall post a sign in a conspicuous place advertising the proposed project, and the date, location, and time of the initial administrative public hearing. The sign will be provided to the applicant by the Community Development Department and shall be posted at the site not less than seven (7) days prior to the date of the initial administrative public hearing.
- C. Notice shall be given to ~~the appellant or applicant and~~ any other person who makes a written request for such notice by the Community Development Director mailing to such persons a written notice not later than ten (10) days prior to ~~before~~ the administrative hearing.

1140.03 PROFESSIONAL STAFF REPORT

- A. A staff report, in memorandum form, shall be required for amending a zoning district map, approving a conditional use, or planned unit development variance. A similar report may be prepared for a variance request, certificate of appropriateness, or proposed subdivision. Although the information may vary depending on the nature of the request or the scale of the proposal, the staff report will contain:
 1. Name and address of the applicant;
 2. The current zoning district of the property;
 3. A legal description of the property and its size, in acres;
 4. The nature of the request. The development proposal itself may be included as an attachment or an enclosure with the meeting's agenda (e.g., a reduction of a proposed final subdivision or elevations of a building proposed for a certificate of appropriateness);
 5. Related actions the City must take on the development proposal. For example, if the applicant is requesting a rezoning, a conditional use permit request or variance may need to follow;
 6. Reasons the applicant may state in support of the development proposal;
 7. Existing land use and zoning within 100 to 1,000 feet, in both written and mapped descriptions;
 8. Record of previous development decisions by the City in the immediate area within the past three to five years; in the case of the final planned unit development or final subdivision, the report should state any conditions that were imposed in the preliminary approval stage and whether they have been carried out;
 9. A statement of what the City's long-range comprehensive plan shows for the area. The plan may include recommendations for lands outside the local government's boundaries. These should be examined for their impact on newly annexed lands;
 10. Existing and proposed public utilities serving the site;
 11. Soil survey data;
 12. Classification of surrounding roads, traffic volumes and direction, and planned improvements;

13. Flood Plain information, if appropriate;
14. Comments from other City departments;
15. Supporting maps and graphics;
16. A recommendation to approve, reject, or modify the development proposal providing sound reasons to do so, against the backdrop of policies in the Comprehensive Plan, engineering standards, and any decision-making criteria or standards in the Unified Development Ordinance. Modification recommendations shall contain alternatives or proposed conditions for approval to mitigate impact on the surrounding area or carry out the intent of the Unified Development Ordinance.

1140.04 LEGISLATIVE HEARINGS

A legislative hearing deals with policy issues and permit public testimony with regard to proposed changes to the Unified Development Ordinance. A decision is then made based on that testimony plus a number of policy factors.

- A. Legislative hearings are held before action is taken to amend or supplement the text of the Unified Development Ordinance and/or the Zoning Districts Map in accordance with the requirements set forth in **Chapter 1103** (Amendments) or when reviewing a development for replatting, which upon approval will result in such an amendment.
- B. Such hearings shall be public for the purpose of obtaining comments and input from the general public and affected property owners and do not have the same degree of formality as an administrative hearing, although the conduct of a legislative hearing shall generally follow the procedures outlined in **Section 1140.06** (Administrative Hearings).
- C. ~~Public Hearing~~— The Planning Commission shall hold at least one legislative public hearing to consider a proposed amendment of the Zoning Map or text to this Unified Development Zoning Ordinance. Each The legislative public hearing shall be publicized in the following manner set forth in **Chapter 1141** (Public Notice). The Planning Commission shall make its recommendation on the proposed amendment to City Council in the manner required by **Chapter 1103** (Amendments).
- D. ~~Public Hearing~~— City Council shall, upon receipt of such recommendation from the Planning Commission, set a time for a legislative public hearing on such proposed amendment or supplement. The legislative hearing shall be publicized in the manner set forth in **Chapter 1141** (Public Notice). City Council shall make its decision on the proposed amendment in the manner required by **Chapter 1103** (Amendments).

1140.05 ADMINISTRATIVE HEARINGS

An administrative hearing shall be held before the Board of Zoning Appeals or the Planning Commission, as the case may be (hereafter, the presiding authority), prior to make a decision on: an Appeal, an application for a Variance, Conditional Use Certificate or a Site Plan, or a petition from the Community Development Department to revoke a Conditional Use Certificate. An administrative hearing determines rights and is therefore more constrained and subject to more rigorous procedures than a legislative hearing. Administrative hearings are quasi-judicial in nature, requiring all testimony to be given under oath subject to cross-examination and rulings must be based on specific findings of fact based on the evidence. The conduct of an Administrative Hearing shall be as follows:

- A. Open to the Public. An administrative hearing shall be open to the public and all persons interested in the outcome of the appeal or application. Any person may be represented by an attorney at law.
- B. Opening of the Hearing. The Chairperson of the presiding authority shall open the hearing at the stated time.

1. **Subject.** The Chairperson shall announce the application or appeal pending before the presiding authority and summarize the standards set forth in this Unified Development Ordinance for the granting of the application or the appeal.
 2. **Rules of Order.** Participants shall be advised that *Robert's Rules of Order* shall cover parliamentary issues.
 3. **Proper Notice.** At this time, recognition of the required public notice publication should be made for the record.
 4. **Instructions to Potential Witnesses.** The Chairperson may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay. The Chairperson shall instruct all potential witnesses that:
 - a. Reasonable but not excessive time shall be given to each individual depending on the number of persons to testify. Presentation time shall generally be limited to three to five minutes for each individual unless extended by the Chairperson;
 - b. Witnesses shall only be given an opportunity to testify about specific and direct evidence and arguments in the form of reliable, probative, and substantial testimony, *i.e.* relevant facts, not unsubstantiated opinions or mere concerns. Hearsay evidence may not be considered by the presiding authority and shall not be allowed in an arbitrary manner unless the testimony meets standards for trustworthiness and necessity
 - c. The applicant and other parties in interest shall be entitled to cross-examine witnesses.
 - d. The presiding authority may continue the administrative hearing until a subsequent meeting and may keep the hearing open to take additional information up to the time when a final decision is made. No further published notice of a continued hearing need be made unless a period of six weeks or more elapses between hearing dates, although the date, time, and place of the continued hearing must be specified to those in attendance or to those who later contact the City.
- C. **Call for Abstentions and Ex Parte Contacts.**
1. The Chairperson shall call for and recognize abstentions by any decision-making member of the presiding authority in the event that there is a personal bias or conflict of interest. The member shall be responsible for explaining the validity of the nature of the conflict of interest.
 2. The Chairperson shall call for acknowledgment of any prior ex parte (off-the-record) communications by non-abstaining decision-making members of the presiding authority.
 - a. The member receiving the ex parte communication should summarize the nature of an oral communication on the record of the hearing so that its substance may be contested in public by other parties.
 - b. Ex parte written materials received by decision-making members of the presiding authority shall be included in the agenda of the hearing or announced by the Chairperson at the hearing so that all parties can review them.
 - c. Ex parte communications do not need to be acknowledged at the hearing when they have been made public by sending a copy or a summary of the nature of an oral communication to the secretary of the presiding authority for timely placement in the applicant's case file for public inspection and to parties required to receive notice by mail.
- D. **Oath of Witnesses.** The Law Director or the Assistant Law Director shall administer the oath to members of the administration of the City and to other persons giving testimony. All persons wishing to present testimony shall stand and the swearing-in of witnesses shall be conducted as a group. As each person

steps forward to present testimony, the Chairperson need only ask the person's identification, home or business address, and if that person was sworn-in prior to receiving testimony.

- E. **Staff Report and Summary.** The Chairperson may call upon any member of the City's administration to deliver a staff assessment or evaluation of the anticipated consequences or impacts of the development proposal to the presiding authority on the application.
1. The Chairperson shall ~~read~~ **enter** all written testimony, ~~and~~ **correspondence, and administrative comments read** into the record of the meeting, ~~including administrative comments.~~
 2. **Members of the presiding authority** ~~Members of the Board~~ may ask any **relevant** questions **relevant** to the case during this time.
 3. **There shall be no cross-examination of the City administration report on the application by proponents or opponents at this time.**
- F. **Recognition of Proponents.** The Chairperson shall next call upon the proponents of the application or appeal to present his/her case.
1. **The Chairperson shall first call upon the applicant or appellant who may make an opening statement and present evidence in support of the application or appeal.**
 2. The Chairperson ~~shall~~ **will** announce that any persons who wish to present testimony **or evidence** supporting the request of the applicant **or appellant** will now have the opportunity to address the **presiding authority** ~~Board~~. ~~Such persons shall be placed under oath prior to giving testimony.~~ **Such persons must confine their evidence or testimony to relevant facts on the question of whether the application or appeal meets the standards set forth in this Unified Development Ordinance for the granting of such application or appeal, or for the placement of lawful conditions upon the granting of the same.**
- G. **Recognition of Opponents.** The Chairperson ~~will~~ **shall next** announce that any persons who wish to present testimony in opposition to the request of the applicant **or appellant** will now have the opportunity to address the **presiding authority** ~~Board~~. **Such persons must confine their evidence or testimony to relevant facts on the question of whether the application or appeal meets the standards set forth in the Unified Development Ordinance for the granting of such application or appeal, or for the placement of lawful conditions upon the granting of the same.** ~~Such persons shall be placed under oath prior to giving testimony.~~
- H. **Cross-Examination of the Staff Report, Proponents and Opponents through the Chair.** Once all initial testimony has been presented to the ~~Board~~ **presiding authority**, the ~~Board~~ **Chairperson** may request or seek further testimony from those who have testified in the case. **All questions and responses shall be directed through the Chairperson.**
1. **The Chairperson shall first recognize members of the presiding authority with questions regarding the proponents' presentation. Members of the presiding authority should probe views of witnesses to separate fact from opinion and lay opinion from expert opinion.**
 2. **The Chairperson may then call upon members of the City's administration for any additional testimony or evidence pertaining to the testimony and evidence which has been presented at the hearing. Any member of the administration presenting additional testimony or evidence shall be subject to questioning by members of the presiding authority or the proponents.**
 3. **Rebuttal and Cross-examination of Witnesses.** The chairperson shall recognize opponents and then proponents who desire to submit rebuttal testimony or to cross-examine witnesses. All comments or questions shall be directed through the Chairperson.
- I. **Rebuttal and Closing Statement.** The Chairperson shall next give the applicant or appellant the opportunity to present additional evidence and testimony pertaining to any new matters raised subsequent to the presentation of his or her case. The applicant or appellant shall also be permitted to give a closing statement in support of the application, petition, or appeal.

- J. **Closing the Hearing.** When the Chairperson has determined that no further discussion of the case on the floor is pending, testimony on the case shall be declared closed and the application or appeal shall be removed to the presiding authority. If pertinent data needs to be obtained, the Chairperson shall announce a continuation of the hearing to another specified date, time, and place.
- K. **Deliberation and Decision.** At this time the conclusion of the hearing, the Board presiding authority shall deliberate upon the application and choose to move to a vote or to continue the hearing to a later date due to additional follow-up to draft the resolution. ~~shall deal with the remainder of the cases on the agenda. Each of these cases will be handled in the manner prescribed in Subparagraphs (a) to (e) above. At the time that all cases identified on the agenda have been heard, the Chairperson will announce that the Board will recess into an executive session. Upon completion of the executive session, the Chairperson shall reconvene the meeting. At this time the basis of determination of findings will be read to the audience.~~
1. If the presiding authority chooses to move to a vote, the motion shall contain a determination of findings of fact and may impose any reasonable conditions provided for by the Unified Development Ordinance. The Chairperson will call the vote ~~on each case presented~~ at the close of discussion. ~~In each case, the Board will vote on each action requested.~~
 2. If time does not permit adequate deliberation, the matter should be continued for a decision at a meeting open to the public at a specified date, time, and place.
 3. Once all the scheduled cases have been processed, ~~the Board shall proceed with the remainder of the agenda. At such time that and~~ all business has been transacted, the Chairperson shall call for a motion to adjourn the meeting.

1140.06 RECORD OF PROCEEDINGS

- A. A complete record of the proceedings of a public hearing, approved by the presiding authority and signed by the secretary of the presiding authority, shall be made in case the decision is appealed. The record of proceedings shall be maintained in the office of Community Development in accordance with the City's Public Records Plan until such record may be disposed of according to the City's Records Retention Schedule.
- B. Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings. A typical hearing record shall include:
1. The applicant's request on a properly completed form;
 2. The records of any actions on this request by an administration official or body, including all past records regarding the property such as an earlier request for variance, conditional use approval, or a record of a nonconforming use status;
 3. Records that verify proper notice has been given to the appropriate parties and to neighboring property owners, including any newspaper notice and the affidavit of publishing thereof;
 4. A complete record of all public input made at the hearing submitted by sworn witnesses. The hearing may be recorded by electronic means for later transcription into minutes or a court stenographer shall be present to prepare a complete record;
 5. Any relevant maps, exhibits, drawings, or photographs presented and marked as evidence or as a part of the application, and copies of any correspondence received or sent out with regard to the request;
 6. A record of what the hearing body saw on any visits it made to the property in question, and a summary of any conversations between the hearing body and parties with an interest in the application;
 7. Copy of a reference to the relevant ordinance requirements;

8. The findings of fact, the conclusions reached, and the recommendation or decision made on the request by the presiding authority. Where applicable, any memorandum or report forwarding that recommendation to City Council on a zoning change or final subdivision, along with the basis or rationale for it, and any recommended changes or conditions to be imposed through legislation.
9. A copy of any other correspondence to or from the petitioner regarding the decision.

1140.07 WRITTEN DECISION

- A. Any decision made in an administrative hearing shall be put into writing and served upon the applicant or appellant and all other persons who make a written request for a copy within fourteen (14) days of the decision.
- B. In addition to a statement of the presiding authority's ultimate disposition of the case and any other information deemed pertinent, the written decision shall state the presiding authority's findings and conclusions, as well as supporting reasons or facts, whenever this chapter requires the same as a prerequisite to taking action.

1140.08 WRITTEN DECISION

- A. Any decision made in an administrative hearing shall be put into writing and served upon the applicant or appellant and all other persons who make a written request for a copy within fourteen (14) days of the decision.
- B. In addition to a statement of the presiding authority's ultimate disposition of the case and any other information deemed pertinent, the written decision shall state the presiding authority's findings and conclusions, as well as supporting reasons or facts, whenever this chapter requires the same as a prerequisite to taking action.

1140.09 BURDEN OF PRESENTING EVIDENCE; BURDEN OF PERSUASION

The provisions of this section apply to all hearings for which a notice is required by [Section 1140.02](#) (Public Notice).

- A. The applicant shall have the burden to present sufficient evidence to meet the requirements of this Unified Development Ordinance in order to justify the requested reversal, order, or decision.
- B. The burden of persuasion on such issues and their compliance with the requirements of this Unified Development Ordinance also remains at all times on the applicant.
- C. The degree of required proof is characterized as a mere preponderance of the evidence – the general standard of proof in civil cases. It thus refers to a body of persuasive evidence which leads the presiding authority to conclude that the standards of public health, safety, and morals established within this Unified Development Ordinance are more likely than not to be satisfied.

CHAPTER 1141

MODIFICATION ~~OF APPEALS~~ AT HEARINGS

1141.01 MODIFICATION OF APPLICATION OR APPEAL AT HEARINGS

In response to questions or comments expressed by persons appearing at a public hearing or to suggestions or recommendations by the presiding authority, an applicant may agree to modify his application or appeal, including the plans and specifications submitted.

- A. Where a modification to an application consists of a minor increase or a decrease to the project scope and impact upon the community, the presiding authority may approve the application with the stipulation that a Development Permit will not be issued until plans reflecting the agreed upon changes are submitted to the Community Development Department.
- B. Where a modification to an application is so substantial or extensive that the modification triggers notice requirements to additional parties, additional review by experienced professionals is necessary, or the presiding authority cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it which indicate the modification, the presiding authority shall deny the application or with the express consent of the applicant or appellant, the hearing may be tabled a reasonable period, not to exceed thirty (30) days, until these requirements are met. In such case, new notice of the hearing shall be provided to all parties as noted in **Chapter 1140.02** (Public Notice).

CONDITIONAL USE CERTIFICATES

CHAPTER 1121

CONDITIONAL USE CERTIFICATES REQUIRED

1121.01	Purpose	1121.07	Issuance Of Certificate
1121.02	Application Procedures	1121.08	Amendments
1121.03	Submission Of Application	1121.09	Reapplication
1121.04	Public Hearing Requirements	1121.10	Termination
1121.05	Basis Of Determination	1121.11	Authorizing Use or Occupancy Before Completion of Development
1121.06	Planning Commission Action		

1121.01 PURPOSE

The purpose of the provisions of this Chapter is to provide for the issuance of Conditional [Use Zoning](#) Certificates where conditionally permitted uses are provided for, ~~and Special Zoning Permits where specially permitted uses are provided for~~ in this [Unified Development Zoning](#) Ordinance.

1121.02 APPLICATION PROCEDURES

All applications for a Conditional Use ~~Zoning Certificate or a Special Zoning Permit~~ shall be submitted to the [Community Development Director Zoning Inspector](#) at the offices of the City of Kent Community Development Department by filing a completed application [that shall include all of the information required for a Development Permit, and on forms provided for that purpose by the Zoning Inspector](#) each application shall be accompanied by the payment of the appropriate fee ~~as specified in Chapter 1111 of this Ordinance.~~ [In addition to the required application information, applicants will be required to submit a Site Plan as set forth in Chapter 1122 et seq. \(Site Plan Review\) and such plan shall be subject to the review process set forth in that same section.](#)

1121.03 SUBMISSION OF APPLICATION ²⁴

Once a [fully](#) completed [application for a](#) Conditional [Use Zoning](#) Certificate ~~or Special Zoning Permit application~~ has been received, the ~~Zoning Inspector~~ [Community Development Director](#) shall place it on the agenda of the next applicable Planning Commission. Prior to this meeting the following procedure shall be followed:

- A. **Administrative Review:** The ~~Zoning Inspector~~ [Community Development Director](#) shall circulate copies of the submitted [application and site plan](#) to the following [municipal](#) departments or divisions: Engineering, ~~and Building, Safety,~~ Police, Fire, Health, Community Development, [Public Service, and Parks and Recreation Department and the Architectural Advisory Board.](#)
 1. Each reviewer shall submit their comments [to the Community Development Department](#) on the project on the form provided [within fourteen \(14\) calendar days](#). ~~In a situation where comment sheets are not returned by the deadline designated on the sheet, the reviewing department shall be deemed to be in violation of the requirements of this Ordinance. Every attempt will be made to allow for as much review time as possible.~~
 2. The Community Development Director shall have the discretion of determining whether comments received from reviewers shall be forwarded to the applicant and the Planning Commission.
- B. **Comment Review Conference.** Once all ~~department~~ comments have been returned, the ~~Zoning Inspector~~ [Community Development Director](#) may arrange, if necessary, a meeting [with between](#) the applicant or project representative [with representatives of the reviewing departments](#) to discuss any negative comments.

²⁴

HISTORY: Ord. 1999-24; Passed 2-3-99

~~Representatives of the reviewing departments may be required to attend this conference, if necessary requested by the Zoning Inspector.~~ The purpose of this conference shall be to allow the applicant to discuss comments with the ~~Community Development Department~~ ~~City Administration~~ so that any needed revisions may be made prior to the actual Planning Commission meeting.

- C. Public Notice: ~~Written notice~~ of the date, time and place of the Planning Commission ~~Administrative Public~~ Hearing involving the review of the request for a Conditional ~~Zoning Use~~ Certificate ~~or Special Zoning Permit~~ shall be ~~published~~ ~~provided pursuant to the procedures set forth in Article VI.~~

1121.04 PUBLIC HEARING REQUIREMENTS

The Planning Commission shall hold an ~~administrative public~~ hearing pursuant to the procedures in ~~Article VI~~ (Hearing Procedures) to review the proposed development as presented on the submitted application, plans and specifications in accordance with the standards established in this Unified Development Ordinance.

- A. ~~Staff Report.~~ When presented to the Planning Commission, the application shall be accompanied by a report setting forth the planning staff's findings compliance with the requirements of this Unified Development Ordinance, as well as any staff recommendations for additional requirements to be imposed by the Planning Commission. If the planning staff report concludes that the application fails to comply with any other requirement of this Unified Development Ordinance, it shall identify supporting reasons for such conclusions.
- B. ~~Sustainability Report.~~ The Sustainability Commission shall review such applications for compliance with the latest adopted Goals for Sustainable Development. If the Sustainability Commission report finds that the application fails to comply with any of the adopted goals, it shall identify supporting reasons for such conclusions.
- C. ~~Architectural Report.~~ The Architectural Review Board shall review such applications and make recommendations to the Planning Commission on design, compatibility, and the character of the proposed development. The Architectural Review Board shall identify supporting reasons for such recommendations.
- D. ~~Comments.~~ The Planning Commission shall consider the application and the attached staff report and may, in its discretion, also take into account comments from the administration or the general public in its evaluation of the project.
- E. ~~Special Studies Required.~~ In the event that the Planning Commission feels that additional information is necessary in order to make its decision, it may instruct the applicant or the administration to conduct additional studies, or seek expert advice. The cost of such studies shall be borne by the applicant ~~but in no event shall such cost exceed one thousand dollars (\$1,000), which sum shall be on deposit with the City, upon request of the Planning Commission.~~
- F. ~~Modification.~~ In response to recommendations, comments, and special studies, the applicant may modify the application, and the planning staff shall likewise review and/or revise its recommendations.
- G. ~~Decision Time Period.~~ The Planning Commission shall approve or disapprove all applications for Conditional ~~Use Zoning~~ Certificates ~~or Special Zoning Permits~~ to come before it within sixty (60) days of the initial ~~administrative public~~ hearing, and may, in its discretion, hear from the applicant or members of the public. Such period may be extended by the Planning Commission in the event that additional studies are required.
1. Whenever it feels necessary, the Planning Commission may attach conditions to the approval of a Conditional ~~Use Zoning~~ Certificates ~~or Special Zoning Permits~~ in order to insure the health, safety or welfare of the public as well as the integrity of an existing neighborhood in proximity to the development.
 2. ~~Whenever the Planning Commission is called upon to make recommendations set forth in this chapter, the Community Development Department shall post notification subject to the requirements set forth in Chapter 1170.~~

1121.05 BASIS OF DETERMINATION

- A. The applicant shall be required to provide a statement supported by substantiating evidence establish by clear and convincing evidence that the general standards of this Zoning Ordinance in this Chapter and the specific standards pertinent to each proposed use shall be met throughout the period of the proposed use. The Planning Commission shall determine compliance or non compliance and shall insure that the general standards, the specific standards, and other terms of this Unified Development Ordinance pertinent to the proposed use shall be satisfied by the completion and operation of the proposed development.
- B. ~~General Standards:~~ The Planning Commission shall review the particular facts and circumstances of each proposed use in terms of the following standards identified in Article X (Conditional Uses) and shall find determine that whether such use of the proposed location is in compliance or non compliance with this Unified Development Ordinance.

1121.06 PLANNING COMMISSION ACTION ON CONDITIONAL USE CERTIFICATES

- A. The Planning Commission shall consider whether the application complies with all of the applicable requirements of this Unified Development Ordinance. If a motion to this effect passes, the Planning Commission need not make further findings concerning such requirements. If such a motion fails or is not made, then a motion shall be made that the application be found not in compliance with one or more of the requirements of this chapter. Such a motion shall specify the particular requirements the application fails to meet.
- B. If the Planning Commission concludes that the application fails to comply with one or more requirements of this Unified Development Ordinance, the application shall be denied.

1121.07 ISSUANCE OF CERTIFICATE

- A. Only upon conclusion of hearing procedures relative to a particular application through adequate review and study may the Planning Commission authorize issuance of a Conditional Use Zoning Certificate or Special Zoning Permit, unless it is concluded, based upon the information submitted at the hearing, that:
 - 1. The requested certificate is not within its jurisdiction according to the Land Use Matrix set forth in Article X (Permitted and Conditional Uses); or
 - 2. If completed as proposed in the application, the development will not comply with one or more requirements of this Unified Development Ordinance (not including those the applicant is not required to comply with under the circumstances specified in Article VIII (Nonconforming Situations)).
- B. The Planning Commission may attach additional conditions where such conditions are deemed necessary to ensure the Conditional Use is in compliance with the general or specific standards set forth by the Unified Development Ordinance.
- C. The Planning Commission may attach to a certificate a condition limiting the certificate to a specified time duration.
- D. All additional conditions or requirements shall be entered on the certificate.
- E. All additional conditions or requirements authorized by this section are enforceable in the same manner and to the same extent as any other applicable requirement of this chapter.
- F. A vote may be taken on application conditions or requirements before consideration of whether the certificate should be denied for any of the reasons set forth in Chapter XXX.
- G. The Community Development Director shall issue the Development Permit as specified in Section 1132(e) once the approval has been authorized.

1121.08 AMENDMENTS

After the approval of a Conditional Use Certificate, the developer, individual property owners or property owner associations may wish to make major or minor modifications. Inasmuch as approval of a Conditional Use is based upon a many site-specific considerations, proposed modifications must be evaluated for their impact on the visual and physical amenities of the development. In order to allow for a process through which these amendments can be made, the following procedures for modification of a Conditional Use Certificate shall be followed:

- A. An application for an "Amendment to a Conditional Use" shall be filed with the Community Development Department. The application shall include three (3) copies of revised required plans clearly showing the proposed changes.
- B. The Community Development Director shall review the proposed modifications and shall determine if the scope of the proposed changes is major or minor in nature.
 1. To qualify as a minor modification, the Community Development Director shall find that proposed modification consists of only the following:
 - a. Adjustments to the size and location of structures, swimming pools, patios and required fencing, landscaping and other improvements that do not result in an increase in the approved number of housing units or principal nonresidential structures
 - b. Increased building mass of a principal structure through an increase in height, length or percent of lot coverage.
 - c. Movement or relocation of a principal structure when the subject property abuts land that is used for residential purposes inside or outside of the development.
 - d. Movement or relocation of a principal structure such that the placement of structures will be closer to any one property line than existed before such relocation
 - e. Adding new non-habitable structures in any residential area, such as storage sheds, children's playhouses and other accessory buildings that do not exceed 100 square feet in lot coverage and does not exceed ten feet (10 ft.) in height.
 - f. Modifications to approved circulation drives and parking areas so long as they do not reduce or increase the number of approved spaces, or encroach into setback areas or designated recreation/open space areas, and the location and number of curb cuts remains unchanged.
 - g. Reductions in the size of signs.
 2. The Community Development Director may approve minor changes if the proposed minor change(s) conform to all previously imposed requirements, regulations and/or conditions of the original certificate.
 3. A major change shall be construed as any change that does not satisfy the above criteria for a minor change. All proposed major changes shall reapplication for conditional use approval as specified in this Chapter.

1121.09 REAPPLICATION

In response to the planning staff s recommendations, the applicant may modify his application prior to submission to Planning Commission, and the planning staff shall likewise review and/or revise its recommendations. No applicant for a Conditional Use Zoning Certificate or Special Zoning Permit which has been denied wholly or in part by the Planning Commission shall be resubmitted until the expiration of one year or more from the date of such denial, except on the grounds of newly discovered evidence as proof of changed conditions which would be sufficient to justify reconsideration as determined by the Commission. Each reapplication shall be accompanied by a the appropriate fee as specified in Section 1111.14.

1121.10 TERMINATION

The Conditional Use Zoning Certificate or Special Zoning Permit shall become void at the expiration of one year after the date of approval unless Development zoning Permits have been obtained and the construction is started or the use is changed.

1121.11 AUTHORIZING USE OR OCCUPANCY BEFORE COMPLETION OF DEVELOPMENT

- A. In cases when, because of weather conditions or other factors beyond the control of the Conditional Use Certificate recipient (exclusive of financial hardship) it would be unreasonable to require the certificate recipient to comply with all of the requirements of this Unified Development Ordinance before commencing the intended use of the property or occupying any buildings or selling lots in a subdivision, the Community Development Director may authorize the commencement of the intended use or the occupancy of buildings or the sale of subdivision lots (insofar as the requirements of this Unified Development Ordinance are concerned) if the certificate recipient provides a performance bond or other security satisfactory to the Community Development Director and the Law Director to ensure that all of these requirements will be fulfilled within a reasonable period (not to exceed 12 months).
- B. When the Planning Commission imposes additional requirements upon the certificate recipient or when the developer proposed in the submitted plans to install amenities beyond those required by this Unified Development Ordinance, the Community Development Director may authorize the certificate recipient to commence the intended use of the property or to occupy any building or to sell any subdivision lots before the additional requirements are fulfilled or the amenities installed if it specifies a date by which, or a schedule according to which, such requirements must be met or each amenity installed and if it concludes that compliance will be ensured as the result of any one or more of the following:
 - 1. A performance bond or other security satisfactory to the Community Development Director and the Law Director is furnished;
 - 2. A condition is imposed establishing an automatic expiration date on the certificate, thereby ensuring that the certificate recipient's compliance will be reviewed when application for renewal is made;
 - 3. The nature of the requirements or amenities is such that sufficient assurance of compliance is given by Chapter 1177 (Penalties and Remedies For Violations) and Chapter 1178 (Permit Revocation).
- C. With respect to subdivisions in which the developer is selling only undeveloped lots, the Planning Commission may authorize Final Development Plat approval and the sale of lots before all the requirements of this chapter are fulfilled if the developer provides a performance bond or other security satisfactory to the Community Development Director and the Law Director to ensure that all of these requirements will be fulfilled within not more than 12 months after Final Development Plat approval.

SITE PLAN REVIEW

CHAPTER 1122

SITE PLAN REQUIREMENTS

- 1122.01 When a Site Plan Is Required
 - 1122.02 Site Plan Submission Requirements, In General
 - 1122.03 Site Plan Review Submission Requirements
 - 1122.04 Technical Site Plan Review Submission Requirements
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1122.01 WHEN A SITE PLAN IS REQUIRED

The Planning Commission shall conduct a Site Plan Review for all projects to come before it, within the guidelines set forth in both this Chapter and all other applicable Sections of this Zoning Ordinance. The following list identifies the types of projects which shall come before the Commission for Site Plan Review: When the Community Development Director Zoning Inspector determines that a proposed project is subject to Site Plan Review in accordance with this Chapter, he/she shall notify the developer or his/her agent of the need to apply for Site Plan Review and Technical Site Plan Review. These applications may be submitted individually or concurrently by the applicant. Applications for and Technical Site Plan Reviews may be obtained from the Community Development Director Zoning Inspector and should be returned to the same when completed.

A Site Plan is required when the proposed construction, alteration, relocation, or change of use involves any of the following elements:

- A. The proposed land use is a conditional use in the zoning district;
- B. A variance is required (except in the case of a single family or two-family dwelling);
- C. The development involves construction of five (5) or more new or additional parking spaces in public or private off-street parking areas in districts where they are permitted as set forth in this Ordinance Article XVI (Site Access, Parking, and Loading);
- D. Multi-site redevelopment plans;
- E. Any activity requiring architectural review as set forth in Section XXX (Architectural Review);
- F. The construction of five (5) or more units of multifamily housing or the construction of three (3) or more units of multifamily housing when the property abuts an O-R, R-1, R-2, R-3, or R-3A Zoned District;
- G. The construction of a new industrial building which exceeds 10,000 square feet in size, or the construction of an addition to an existing industrial building where the proposed addition causes the total square footage of the building(s) on the site to increase by an additional 50 percent or to exceed 10,000 square feet, whichever is less;
- H. The construction of a new commercial building which exceeds 5,000 square feet in size, or the construction of an addition to an existing commercial building where the proposed addition causes the total square footage of the building(s) on the site to increase by an additional 50 percent or to exceed 5,000 square feet, whichever is less;
- I. The construction of any new commercial or industrial building or addition thereto to an existing commercial or industrial building where the property abuts an O-R, R-1, R-2, R-3, R-3A, or R-4 Zoned District;
- J. A project where an existing multifamily, boarding/rooming house, commercial or industrial use is contemplating an addition or expansion which would have at least one or more of the following effects:
 - 1. Alteration of traffic flows by way of ingress, egress or within the site itself;

2. Alteration or rearrangement of on-site parking which results in a reduction in the number of parking spaces or placement within a required front yard area; and/or
3. Addition to structure which increases the floor area by 50% or more of the existing building floor area.

K. The proposed development, or new phases/changes/expansion of an existing development, will generate or has the potential to generate, an increase in traffic volumes of more than one hundred (100) vehicle trip ends during the peak hour of generation according to the most recent version of the Institute of Transportation Engineers (ITE) Trip Generation Manual. A vehicle trip end is the total of entering and exiting vehicles for the proposed development at full build out and occupancy. Estimates of traffic volumes shall be based on weekday traffic for locations at which weekday employment predominates. Retail development shall include weekend traffic volumes in the estimates.

1122.02 SITE PLAN SUBMISSION REQUIREMENTS, IN GENERAL

The purpose of this Chapter Site Plan Review is to identify a procedure for the review and approval of Site Plans enables the Community Development Director and the Planning Commission to determine whether a development with potentially greater impacts upon the community complies with the detailed requirements of this Unified Development Ordinance, for permitted uses within the applicable Sections of this Zoning Code. In order to inform a developer of planning and zoning issues before incurring substantial architectural and engineering costs for a project, the Site Plan review process has a two-step procedure. The Planning Commission shall conduct a Site Plan Review so that it may determine that the specific planning requirements of this Unified Development Ordinance are being satisfied in the planning of the proposed project. Following the Site Plan Review, a developer shall submit detailed plans and drawings for Technical Site Plan Review by the Community Development Department and other City departments.

- A.** Variance Approval Prior to Submittal. If a proposed site plan includes a request for a variance, such variance must be approved by the Board of Zoning Appeals, in accordance with Article V (Appeals, Variances, and Interpretations) prior to site plan review.
- B.** Flexibility. As provided in Section 1131.02(c), All the requirements of this Chapter must be submitted for an application to be complete. However, it is recognized that each development is unique, therefore, the Community Development Director may require more or less information to be submitted in an application than that set forth in the requirements of the aforementioned section.
- C.** Methodology. Site Plan drawings shall utilize the following methodology and provide the following minimum data and information to the extent required by this Ordinance and specific to the type of development proposed:
 1. All drawings prepared for submission under (b) and (c) above this section of this Unified Development Ordinance shall be prepared by a professional engineer, architect, city planner or surveyor and shall bear their professional seal, unless it is determined by the Community Development Director Zoning Inspector, that due to the simplicity of the project, a professional seal is not required at this stage of the project development.
 2. The cover letter shall indicate the Applicant name, address, and phone number; the Owner name, address, and telephone number; and provide an overview of the project being proposed.
 3. Site Plan Drawings should show on the first page the following information:
 - a. Name, address, telephone number and State of Ohio registration number of the registered surveyor, city planner, landscape architect or professional engineer who prepared the Site Plan;
 - b. Name, address and telephone number of the builder;
 - c. Proposed name of subdivision site (if any and must not duplicate others in the County) township, tract, original lot or section number, sub-lot number, street address;

- d. [Proposed use of structure or site;](#)
 - e. [North arrow, legend, date prepared, and scale.](#)
 - f. [Scale. Site Plan Drawings shall be drawn to a scale so that all features required to be shown on the plans are readily discernible, preferably one inch equals twenty feet \(1" = 20'\), but no smaller than one inch equals fifty feet \(1"=50'\).](#)
 - (1) [This objective may be accomplished by using multiple plans drawn to different scales to illustrate pertinent features.](#)
 - (2) [In all cases, the Community Development Director shall make the final determination as to the appropriateness of scale.](#)
4. Vicinity Map.²⁵ The map shall show the relationship of the proposed development site to existing community facilities which serve or influence it. The vicinity map may be on the same sheet as the preliminary plan drawing. The vicinity map at a scale of 1" = 400' shall show:
- a. Subdivision name; township, tract and original lot or section number; north arrow and the Ohio State Plane coordinate grid;
 - b. Existing and proposed main traffic arteries;
 - c. Shopping facilities;
 - d. Schools;
 - e. Parks and playgrounds;
 - f. Any other significant community features.
5. [Architectural drawings shall include floor plans and exterior elevations for existing and proposed buildings with proposed design guidelines that express common architectural themes in buildings, and other improvements.](#) If exterior elevations are not available, reasonable graphic representations may be submitted.
6. Existing features on maps should be clearly distinguished from proposed features.
7. [Format. Site plan drawings shall be submitted in a hard copy format on 11" x 17" or 24" x 36" paper \(plan sizes greater than 24" x 36" in size shall not be excepted\), or in an electronic media format acceptable to the Community Development Department.](#) All plans should be folded to fit inside a 10" x 13" or a 12" x 15.5" envelope.
8. [Number of Copies. With respect to all plans and other documents required by this Article, the developer shall submit the following number of copies to the ~~Zoning Inspector~~ Community Development Director:](#)
- a. [Site Plan. Eighteen \(18\) copies of the Site Plan shall be provided. One copy of the vicinity map shall be sufficient. For a proposed commercial project, only six \(6\) copies of an architectural plan \(or reasonable graphic representations, as noted above in **subparagraph \(b\)\(4\)** showing exterior elevations are required.](#)
 - b. [Technical ~~Final~~ Site Plan. Eight \(8\) copies of the Technical ~~Final~~ Site Plan shall be provided.](#)

1122.03 SITE PLAN REVIEW SUBMISSION REQUIREMENTS

The application for a Site Plan Review shall include the following items show all information required for a Development Permit as set forth in Section 1131.03 as well as the locations of the following existing and proposed legal, natural, and man-made features on the lot where the development is to take place and within fifty (50) feet in any direction of the lot:

A. Legal Features:

1. A property boundary line survey, as surveyed by a registered surveyor, showing bearings and distances including the geometric layout of the site showing complete dimensions of existing and proposed buildings, roads, drives, parking areas, utilities, landscaping and other site elements with adequate detail and dimensions to allow construction without the need to scale from the plan to determine the designer's intended location property lines, easements (and their purpose), and street right-of-way lines in the vicinity or adjacent to the subject property. Indicate street centerline stationing and pavement edges and walks for adjacent road(s). Bearing and distance dimensions shall be shown on property lines and to property corners. Property pins or other approved markers shall be set and shown at all property corners and property line stakes shall be set and shown where, due to topography, length of line or obstructions, the location of the property line cannot be determined by sighting from property corner to property corner.
2. Zoning of the property, including zoning district lines where applicable, and lot size and front, rear, and side yard setback requirements;
3. *Variance Provisions.* If a variance has been obtained, indicate the variance provisions and the date of the variance approval.

B. Natural Features:

1. *Stormwater Management Plan* indicating approximate direction and gradient of ground slope including any embankments or retaining walls and the delineation of existing drainage patterns (including intermittent and ephemeral streams, rivers and their related river or stream bank, ponds, drainage ditches, and swamps), floodways and floodplains as delineated by the Federal Emergency Management Agency, or any other existing watercourses or waterbodies that appear on 1:24,000 U.S.G.S. maps; and wetlands, erosion and sediment control measures for the parcel and preliminary calculations to document the sizing of stormwater water management facilities pursuant to Article XXI (Stormwater Management).
2. Identification of unique vistas.
3. The location and specifications for all natural non-vegetative features to be conserved, altered, or impacted by the development.
4. *Landscaping Plan* detailing the location and specifications for all significant existing vegetation (including locations of tree lines and individual trees 18 inches in diameter or more, identified by common or scientific name), and proposed perimeter and internal landscaping or construction of other devices (such as walls, fences, etc.) to comply with the landscaping, buffering, and shading requirements of Article XVIII (Landscaping and Buffering). Existing and proposed landscaping, indicating the type and material and planting is being used, their size, and placement. The plan shall specifically identify proposed trees in the street right-of-way as well as existing trees in the street right-of-way that are not affected in any way by the proposed development.

C. Man-made Features:

1. Areas of known or potential historical, archaeological, or cultural significance, which may include stone walls, barns, earth mounds, and burial grounds;
2. All existing and proposed on-site uses, structures, buildings, decks, porches, storage sheds, dumpsters, fences and walls, landscape beds, power lines and poles, telecommunication towers,

flagpoles, bulkheads, docks, transformers, air conditioners, generators and such similar equipment. Any temporary structures shall be indicated, ~~as such on site plans submitted to the Planning Commission for approval. Such structures and~~ shall not be continued as permanent structures. The period of continuance shall be set by the Commission;

3. The Site Plan shall include: dimensions of each structure footprint as well as any roof or floor overhangs or wall or window projections; the distances all buildings and freestanding signs are set back from property lines, streets, or street right-of-way lines; and the method of applicable screening;
4. The total square footage of all existing and proposed impervious area on the site;
5. Scale drawings of all signs requiring permits pursuant to **Article XV** (Signs), together with an indication of the location and dimensions of all such signs.
6. Proposed architectural elevation drawings of the site for new buildings or exterior remodeling of existing buildings.
7. The use and ownership of adjacent properties, and the location of structures, drives and other physical features within ~~100~~ fifty (50) feet of the site boundary, including the distance to the nearest street intersection;
8. The ~~site plan shall show conformance with the~~ *Traffic and Circulation City Thoroughfare Plan* and shall show that the locations and dimensions of all proposed streets and sidewalks, and that proper relationship exists between them in accordance with **Article XIX** (Streets and Sidewalks) ~~thoroughfares, roadways, service roads, driveways and parking areas to promote pedestrian and vehicular traffic safety on both public and private lands. Channelization, signing, striping, pavement marking and traffic control devices shall be provided in accordance with accepted engineering design and construction practices.~~
9. A *Traffic Impact Study* shall be mandatory when so required under the circumstances and conditions set forth in **Article XV** (Site Access, Parking, and Loading).
10. *Resource Management Plans*. A description of resource management controls appropriate for a development must be submitted in a *Stormwater Management Plan* and/or a *Forest Management Plan*. Requirements for resource management controls and Best Management Practices shall be stated in such plans in addition to any other requirements as set forth in **Article XX** (Water Resource Management).
11. *Signage Plans*. The location, dimensions, materials, illuminating characteristics (both internal and/or external) and design for existing and/or proposed signs on the property, in addition to any other requirements set forth in **Article VII** (Signage), shall be included in either a Master Signage Plan or a Comprehensive Signage Plan pursuant to **Article VII**. An application for a Signage Permit may be processed simultaneously as part of Site Plan Review.
12. *Waste Management Plan*. The location and dimensions of proposed trash receptacles and/ or any other solid waste disposal facilities, as well as, size, and specification of any screening of such trash or solid waste receptacles shall be included in these plans in addition to any other requirements set forth in **Article XIX, Section 1257.03** (Waste Management).
13. The location and dimensions of all recreational areas provided in accordance with **Article XVI** (Parks, Open Space, and Recreational Amenities), with each area designated as to type of use including, but not limited to a detailed description of play apparatus or other recreational facilities to be provided in mini-parks.

1122.04 TECHNICAL SITE PLAN REVIEW SUBMISSION REQUIREMENTS

The application for Technical Site Plan Review shall be in accordance with the City Unified Development Ordinance or variances granted and with the intent of the Site Plan as approved by the Planning Commission as well as all other applicable ordinances, codes, rules and regulations. The application shall contain complete engineering and constructional details and notes and shall include the following minimum data and information in addition to that previously submitted for Site Plan Review:

- A. A description of site soils and a statement concerning their effect upon the design and construction of the improvements shall be included.
- B. Existing and proposed topographical features. Ground elevations shall be shown as contour lines with no larger than five-foot contour intervals if ground slope is in excess of four percent and two-foot intervals if ground slope is less than four percent. The location of areas with existing slopes in excess of twelve percent (12%) shall be designated as such. Show existing (hidden line-type) and proposed (continuous line-type) grading contours for the site and 50 feet beyond the site property lines. A minimum of two vertical bench marks shall be shown on the plan.
1. Adequate Elevations shall be provided to show that the site will adequately drain and that the grades of the ground and structures will be within acceptable design limits. Show existing and proposed drainage paths using flow arrows.
 2. Existing and Show spot elevations of the site for new buildings or exterior remodeling of existing buildings, including elevations at building corners, property corners, sidewalks, streets, storm and sanitary sewers, building floors, etc. Adequate elevations shall be provided to show that the site will adequately drain and that the grades of the ground and structures will be within acceptable design limits. A minimum of two vertical bench marks shall be shown on the plan indicating the existing and proposed floor elevations of buildings (e.g., 1st floor, Basement, Garage, etc.) and elevations of proposed or existing grading at structure corners. Indicate 1st floor and ground elevations of adjacent structures.
 3. Provide spot elevations for each side of driveway at street pavement edges, sidewalk edges, building edges, corners and grade breaks.
- C. Utilities Plan. Show the location, purpose, and dimensions of all existing (dashed lines) and proposed (continuous lines) utility easements, lines, service laterals, and other facilities, including, but not limited to water, sewer, electric power lines and poles, natural gas, telephone, cable television, and telecommunications/data transfer facilities. These plans shall include all of the elements required by Article XXI (Utilities). Show their size, slope, flow direction, and elevations at upstream and downstream manholes and inlets including both top and invert data. Indicate the horizontal clearances between utilities and the minimum vertical clearance where one utility will cross another. Utilities shall be designed in accordance with accepted engineering practice. Engineering notes from investigation of the existing utility systems to verify that their condition and capacity is adequate for the use intended shall be provided. Easements as may be required by the City for such utilities which are to become a part of the public system shall be provided. If water mains, sewers and/or culverts are not on or adjacent to the tract, indicate the direction and distance to and size of nearest ones, showing invert elevation of sewers and culverts. Water Service Plans showing pipe size, location and grade, location of connection to City water main, , curb boxes, the size, type and location of metering vaults and/or inspection wells (when required),, and calculations of water service line and water meter size based upon the proposed building occupancy, use and plumbing fixture units in estimated water usage average and peak flows. Sanitary Sewer Plan complete with pipe type, size, location, grade and elevations at the building wall and at the point of connection to the public sewer. Include design sewer flow data indicating the proposed quantity and composition of the sanitary waste in accordance with EPA guidelines based upon the proposed building occupancy. Storm Sewer Plan complete with pipe type, size, location, grade and elevations (including their proposed invert at the building wall) for all site drainage including, but not limited to curbs and gutters, curb inlets and curb cuts, drainage grates, catch basins, trenches, manholes, pipes, drainage ditches, roof drain connections to the storm sewer together with stormwater run-off calculations, pipe size calculations, pre- and post-development runoff factors, and stormwater retention or detention (where required) calculations and provisions. Investigation conducted to verify that the condition and capacity of any existing storm sewer to be utilized as a part of the development or as a discharge point for stormwater from the development is adequate and that its use will

not adversely affect other properties shall be supplemented with surveys, field reports and calculations. The map must clearly delineate all areas with hard or impervious surfaces.

- D. **Lighting Plan.** Location of existing and/or proposed exterior lighting locations and poles, with area of illumination and type of fixtures illustrated, demonstrating compliance with accepted engineering practices.
- E. **When new public improvements are proposed,** a detailed, itemized engineer's estimate of quantities and costs for construction of ~~the site~~ such public improvements.²⁶
- F. **Documents and Written Information in Addition to Plans.** The Community Development Director or the Planning Commission may require submittal of additional information whenever the nature of the proposed development makes the need for additional information or documents relevant. The following is a representative list of the types of information or documents that may be requested:
1. Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such a person.
 2. Certifications from the appropriate agencies that proposed utility systems are or will be adequate to handle the proposed development, as set forth in **Article XIX** (Utilities), and that all necessary easements have been provided.
 3. Bonds, letters of credit, or other surety devices.
 4. Complete documentation justifying any requested deviation from specific requirements established by this chapter as presumptively satisfying design standards.
 5. Written evidence of permission to use satellite parking spaces under the control of a person other than the developer when such spaces are allowed.
 6. Written evidence of good faith efforts to acquire satellite parking.
 7. An assessment of the environmental impact of a development, including its effect on historically significant or ecologically fragile or important areas and its impact on pedestrian or traffic safety or congestion.

CHAPTER 1123

SITE PLAN REVIEW

- 1123.01 Notification of Administrative Hearing
 - 1123.02 Municipal Department Comment and Special Studies Required
 - 1123.03 Action by the Planning Commission
-

1123.01 NOTIFICATION OF ADMINISTRATIVE HEARING

Once a completed Site Plan Review application has been received, the **Community Development Director Zoning Inspector** shall ~~begin processing the application through the following procedures:~~ determine the date, time and place of the next Planning Commission meeting at which the Site Plan Review administrative hearing will be conducted. ~~Notification of the administrative hearing shall be published pursuant to Section 1168.02. in each of the following ways: Once in a newspaper of general circulation in the City at least fifteen (15) days prior to the date of the meeting. Written notice of the meeting shall be sent by the Community Development Director - Zoning Inspector in the regular mail at least fifteen (15) days before the date of the meeting to the owners of property within and contiguous to and directly across the street from any part of the property or 200 feet from the property, whichever is greater, and the addresses of such owners shall be those as appear on the County Auditor's current tax list or the Treasurer's mailing list as required to be provided herein. The notice shall include an indication to such owners the intent of the Site Plan Review request to be considered by the Planning Commission. The applicant shall post a sign advertising the proposed project, and the date and time of the initial Public Hearing. The sign will be provided to the applicant by the Community Development Department and shall be posted at the site not less than seven (7) days prior to the date of the initial Public Hearing.~~²⁷

1123.02 MUNICIPAL DEPARTMENT COMMENT AND SPECIAL STUDIES REQUIRED

- A. **Municipal Department Comment.** Upon receipt of an application for Site Plan Review, the **Community Development Director Zoning Inspector** shall circulate copies of the submitted site plans to **appropriate municipal** departments or divisions **including, but not limited to:** Engineering **and Building, Safety,** Police, Fire, Health, Community Development, **Public Service, and Parks and Recreation, the Shade Tree Commission,** and the Architectural **Advisory Review** Board. Each reviewer shall submit their comments on the project **to the Community Development Director** on the form provided **in advance of the public hearing.**
- B. **Special Studies.** In the event that the Planning Commission **determines feels** that additional information is necessary in order to make its decision, it may instruct the applicant to conduct additional studies, or seek expert advice. The cost of such studies shall be borne by the applicant, which sum shall be on deposit with the City, ~~upon request of the Planning Commission.~~
- C. **Comment Review Conference.** Once all department comments or special study reports have been returned, the **Zoning Inspector Community Development Director** may arrange, if necessary, a meeting with the applicant or project representative to discuss any negative comments. Representatives of the reviewing departments may be required to attend this conference, if necessary. The purpose of this conference shall be to allow the applicant to discuss comments with the City Administration so that any needed revisions may be made prior to the actual Planning Commission meeting.

1123.03 ACTION BY THE PLANNING COMMISSION

The Planning Commission shall conduct an administrative hearing pursuant to Chapter 1167 in order to review the Site Plan. The Planning Commission shall approve or disapprove **the application** within sixty (60) days of the **initial Site Plan Review meeting date the application was deemed "fully complete" by the Community Development Director.** Such period may be extended by the **Planning** Commission in the event that additional studies are required.

- A. **Approval -** ~~In the event that the Commission approves a proposed~~ **Upon approval of a** Site Plan, the **Planning** Commission shall notify the applicant in writing of its decision **pursuant to Chapter 1170 and invite**

²⁷

HISTORY: Ord. 1999-24. Passed 2-3-99

the applicant to submit an application for Technical Site Plan Review (unless this has been submitted concurrently with the Site Plan Review Application). The Chairman of the Planning Commission, or his/her designee shall sign and date a copy of the approved plans and this copy shall become the officially approved Site Plan. An officially approved Site Plan shall expire within six (6) months of its date of approval. A three month extension may be granted upon petition of the applicant and the approval of the Planning Commission.

- B. Disapproval - In the event that ~~the Commission does not approve~~ a proposed Site Plan is not approved, the Planning Commission shall notify the applicant in writing of its decision pursuant to **Chapter 1170** and describe what modifications must be made to the Site Plan to bring it in conformance with the Unified Development Ordinance. When a Site Plan is not approved as submitted, it may not be resubmitted to the Planning Commission for review in less than one (1) year from the date of the decision, unless correcting revisions have been made to the original plans. All resubmitted applications shall follow the application requirements set forth in this Chapter.