Article 4. Review and Approval Procedures

30-4-1 Common Review Procedures

30-4-1.1 Preapplication Consultation

A. Before submitting an application for any development approval, applicants are encouraged to schedule a preapplication consultation with the Planning and Community Development Director to discuss the procedures, standards and regulations required for development approval in accordance with this ordinance.

B. A preapplication consultation with the Planning and Community Development Director is mandatory prior to the following development reviews:
   1. Zoning Map Amendment (30-4-5, and 30-4-6)
   2. Comprehensive Plan Amendment (30-4-3)
   3. Special Use Permit (30-4-10)

C. A preapplication consultation with the Planning and Community Development Director is mandatory before local Historic District Designation (30-4-12.1).

D. A preapplication consultation with the Department of Transportation Director is mandatory prior to preparation of a Transportation Impact Study.

E. The Planning and Community Development Director may establish guidelines for conducting preapplication consultations, which may include alternatives to face-to-face meetings, such as telephone conversations and email correspondence.

30-4-1.2 Applicant’s Summary of Neighborhood Communications

A. Purpose
   The purpose of the neighborhood communication summary is to educate the applicant and the neighborhood about each other’s interests, to attempt to resolve issues in a manner that respects those interests and to identify unresolved issues.

B. Applicability
   The neighborhood communication requirements of this section apply to all applications for a conditional rezoning (30-4-5), unless there are no residential uses within 600 feet of the property under consideration. If there are no residential uses within 600 feet of the property under consideration the applicant is exempt from neighborhood communication summary requirements.

C. Summary Report
   1. Prior to the public hearing, the applicant must submit a summary report to the Planning and Community Development Director at least two working days before the day of the scheduled public hearing. The summary report must describe:
      a. efforts to notify neighborhoods about the proposal (how and when notification occurred, and who was notified);
      b. how information about the proposal was shared with neighborhoods (mailings, workshops or meetings, open houses, flyers, door-to-door handouts, etc.);
      c. who was involved in the discussions;
d. suggestions and concerns raised by the neighborhoods; and

e. what specific changes to the development proposal were considered and/or made as a result of
the communications with the neighborhoods.

2. The applicant must present the summary report to the authorized decision-making body at the public
hearing.

30-4-1.3 Application Requirements

A. Forms
Applications required under this ordinance must be submitted on forms, in such numbers, and according to
deadlines established by the appropriate department.

B. Fees
1. All applications and associated fees must be filed with the appropriate department.
2. Filing fees may be established and modified from time to time to defray the actual cost of processing
the application.

Commentary: Subdivision and site plan review fee rebates may be available for projects that
receive qualifying “green” certification from one or more of the following organizations: Leadership
in Energy and Environmental Design (LEED), Green Globes, EarthCraft House, NC HealthyBuilt
Homes, NAHB National Green Building. Other sustainability fee incentives may be established and
modified from time to time.

C. Applications Sufficient for Processing
Applications must be substantially complete in order to be reviewed.

30-4-1.4 Notice

A. Summary of Notice Required
1. City Council Hearings
Notice is required for City Council hearings as shown in the following table:

<table>
<thead>
<tr>
<th>Procedure</th>
<th>Published</th>
<th>Mailed</th>
<th>Posted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comprehensive Plan Amendment</td>
<td>X(1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Zoning Map Amendment</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Overlays - Plan, Design Manual</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ordinance Text Amendment</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Special Use Permit</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Local Historic District or Landmark Designation</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Site Specific Development Plan</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Street, Alley and Walkway Closing</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Street Name Changes</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Development Agreements</td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note:
(1) Published notice required when in association with a Zoning Map Amendment.
(2) Mailed notice required only for Generalized Future Land Use and Growth Strategy Maps.
2. **Boards and Commissions**

   Notice is required for Board and Commission hearings (other than City Council) as shown in the following table:

<table>
<thead>
<tr>
<th>Procedure</th>
<th>Published</th>
<th>Mailed</th>
<th>Posted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comprehensive Plan Amendment</td>
<td>X(1)</td>
<td>X(2)</td>
<td></td>
</tr>
<tr>
<td>Zoning Map Amendment</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Overlays - Plan, Design Manual</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Special Use Permit</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Variance and Special Exception</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Local Historic District or Landmark Designation</td>
<td>X</td>
<td>X</td>
<td>X(3)</td>
</tr>
<tr>
<td>Certificate of Appropriateness</td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Site Specific Development Plan</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Street, Alley and Walkway Closing</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Street Name Changes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appeal of Zoning Administrative Decision</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appeal of Tree Conservation Administrative Decision and Penalty</td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

   **Note:**
   (1) Published notice required when in association with a Zoning Map Amendment.
   (2) Mailed notice required only for Generalized Future Land Use and Growth Strategy Maps.
   (3) Posted notice required for Local Historic District Designation.
   (4) Mailed notice required when appropriate.

**Commentary:** See City Charter Section 6.61 for the notification requirements for Street, Alley and Walkway Closings.

B. **Notification Requirements**

1. **Published Notice**

   a. **Zoning Map Amendments, Special Use Permits and Ordinance Text Amendments**
      All zoning map amendments heard by the Zoning Commission and City Council, and all Special Use Permits and Ordinance Text Amendments heard by City Council require the placement of an advertisement in a local newspaper of general circulation once a week for 2 successive calendar weeks, the first notice being published not less than 10 days nor more than 25 days before the date of the public hearing.

   b. **Board of Adjustment**
      An advertisement must be placed in a local newspaper of general circulation once, not less than 10 days nor more than 25 days before the date of the public hearing.

2. **Mailed Notice**

   a. Notice must be mailed to the owners of the subject property and to owners of all properties adjacent to the property that is the subject of the application. Required notices must be mailed to the address indicated in the county's tax records. In the case of a split-zoned parcel request, the entire parcel shall be counted in calculating the mailed notice area.

   b. A reasonable attempt must be made to provide mailed notice to the following additional property owners:

**Commentary:** See City Charter Section 6.61 for the notification requirements for Street, Alley and Walkway Closings.
Table 4–3 Mailed Notice

<table>
<thead>
<tr>
<th>Procedure</th>
<th>Notification Distance (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comprehensive Plan Amendment</td>
<td>600</td>
</tr>
<tr>
<td>Zoning Map Amendment</td>
<td>600</td>
</tr>
<tr>
<td>Overlays - Plan, Design Manual</td>
<td>600</td>
</tr>
<tr>
<td>Variance and Special Exception</td>
<td>150</td>
</tr>
<tr>
<td>Special Use Permit</td>
<td>600</td>
</tr>
<tr>
<td>Certificate of Appropriateness</td>
<td>100</td>
</tr>
<tr>
<td>Site Specific Development Plan</td>
<td>All adjacent properties(1)</td>
</tr>
<tr>
<td>Street, Alley and Walkway Closings</td>
<td>All adjacent properties</td>
</tr>
<tr>
<td>Street Name Change</td>
<td>All adjacent properties</td>
</tr>
<tr>
<td>Appeal of Tree Conservation Administrative Decision and Penalty</td>
<td>All Adjacent properties(1)</td>
</tr>
</tbody>
</table>

**Note:**
(1) Adjacent properties include properties directly across the street from the subject property.

c. All Zoning Commission and Board of Adjustment notices must be mailed at least 10 but not more than 25 days before the date of the public hearing. All other notices must be mailed prior to the public hearing date.

d. The person or persons mailing zoning map amendment notices must certify to the City Council that proper notice has been given. Such certification is deemed conclusive in the absence of fraud.

e. Mailed notice under this section is not required if a zoning map amendment directly affects more than 50 properties owned by a total of at least 50 different property owners, and the Planning and Community Development Director elects to use the published notice requirements provision in NCGS Section 160A-384.

f. When a rezoning application not initiated by the City is submitted by someone other than the owner of the property or an authorized party or agent, special notification requirements to the owner shall be made in conformance with NCGS 160A-384.

3. **Posted Notice (Sign)**

The Planning Director must post a sign as specified in 30-4-1.4(A) advertising the public hearing not less than 10 days nor more than 25 days before the date of public hearing for the action being considered. The sign must be posted on the property or at a point visible from a public street. The sign must include, at a minimum, the time, date and case number of the matter to be heard at the hearing, and contact information of the Planning Department.

C. **Constructive Notice**

The appropriate department director may determine, with appropriate consultation with the city attorney’s office, if minor defects in notice impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements.

(Amended by Ord. 12-26 on 4/3/12, Ord. 12-114 on 10/2/12 and Ord. 13-122 on 9/17/13)

30-4-1.5 Hearing

A public hearing is required for development review as shown in the table below:

Table 4–4 Hearing Requirements

<table>
<thead>
<tr>
<th>Procedure</th>
<th>Board of Adjustment</th>
<th>Historic Pres. Preservation</th>
<th>Zoning Commission</th>
<th>Planning Board</th>
<th>City Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comprehensive Plan Amendment</td>
<td></td>
<td></td>
<td></td>
<td>X(1)</td>
<td>X</td>
</tr>
<tr>
<td>Ordinance Text Amendment</td>
<td></td>
<td></td>
<td></td>
<td>X(2)</td>
<td></td>
</tr>
<tr>
<td>Zoning Map Amendment</td>
<td></td>
<td></td>
<td></td>
<td>X(3)</td>
<td>X(4)</td>
</tr>
</tbody>
</table>
### Table 4–4 Hearing Requirements

<table>
<thead>
<tr>
<th>Procedure</th>
<th>Board of Adjustment</th>
<th>Historic Pres. Preservation</th>
<th>Zoning Commission</th>
<th>Planning Board</th>
<th>City Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overlays - Plan, Design Manual</td>
<td></td>
<td>X</td>
<td></td>
<td>X(3)</td>
<td>X(4)</td>
</tr>
<tr>
<td>Special Use Permit</td>
<td>X(3)</td>
<td></td>
<td>X</td>
<td>X(3)</td>
<td>X(4)</td>
</tr>
<tr>
<td>Local Historic District Designation</td>
<td>X</td>
<td></td>
<td></td>
<td>X(3)</td>
<td>X(4)</td>
</tr>
<tr>
<td>Designation of Landmark Sign</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Certificate of Appropriateness</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Demolition by Neglect</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Variance and Special Exception</td>
<td>X(5)</td>
<td>X(3)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Street Name Changes</td>
<td></td>
<td></td>
<td></td>
<td>X(3)</td>
<td>X(4)</td>
</tr>
<tr>
<td>Street, Alley and Walkway Closing</td>
<td>X(3)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Site Specific Development Plan</td>
<td>X(3)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appeal of Zoning Administrative Decision</td>
<td>X(5)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Notes:**
1. Where Planning Board is involved
2. Except where bypassed by City Council (see 30-4-4)
3. Where Historic Preservation Commission is involved
4. City Council public hearing if required.
5. Requires a quasi-judicial hearing

(Amended by Ord. 12-26 on 4/3/12 and Ord. 12-114 on 10/2/12)

### 30-4-1.6 Appeals to Boards and Commissions

**A. General**

Unless otherwise expressly stated, appeals of decisions, actions, orders, or interpretations of this ordinance must be:

1. in writing;
2. filed within 15 days of the decision being appealed; and
3. filed with appropriate department assisting the public body to which the appeal is taken.

**B. Nature of Hearing**

Unless otherwise, expressly stated, the appeal hearing will be held in the same manner as prior deliberations; provided, however, that appeals from decisions of the Historic Preservation Commission shall be considered such that the Board of Adjustment only considers the facts presented at the Historic Preservation Commission, as reflected by the correct record of the Historic Preservation Commission (i.e. certiorari appeal).

(Amended by Ord. 13-156 on 12/17/13)

### 30-4-1.7 Appeals from Board of Adjustment

**A.** Except as otherwise provided, an appeal from a decision of the Board of Adjustment is heard on the record by the Guilford County Superior Court.

**B.** Any petition for review by the Superior Court must be filed with the Clerk of Superior Court within 30 days after the latter of the following:

1. the decision of the Board is filed in the Planning and Community Development Department; or
2. a written copy of the decision is delivered to every aggrieved party who has filed a written request for such copy with the Board Secretary or Chair of the Board at the time of its hearing of the case.
30-4-2 Ordinance Interpretation

30-4-2.1 Applicability

A. Interpretation by Planning Director
   The Planning Director and/or an officer charged with enforcing this ordinance is authorized to make interpretations concerning the provisions of this ordinance.

B. Appeal
   Appeals of administrative official interpretations of all other portions of this ordinance may be appealed to the BOA in accordance with the appeal procedures of 30-4-27.

(Amended by Ord. 12-114 on 10/2/12 and Ord. 13-122 on 9/17/13)

30-4-3 Comprehensive Plan Amendments

30-4-3.1 Applicability

A. The City Council may consider amendments to the Comprehensive Plan not in association with a Zoning Map Amendment, as may be required from time to time, with a recommendation from the Planning Board.

B. The City Council may also consider amendments to the Comprehensive Plan when Zoning Map Amendment applications are in direct conflict with the Comprehensive Plan, as determined by the Planning and Community Development Director. Such plan amendments shall only be heard by the City Council. Council may also establish policy guidelines as to what amendments constitute a direct conflict and require an amendment.

30-4-3.2 Coordination with Applications for Zoning Map Amendment

When required, an application for a plan amendment must be submitted and reviewed concurrently with a zoning map amendment application.
30-4-3.3 Preapplication Consultation

In order to determine whether a plan amendment is required, a preapplication consultation is required in accordance with Preapplication Consultation requirements of 30-4-1.1.

30-4-3.4 Application Requirements

An application for a plan amendment must be prepared in accordance with the common review procedures of 30-4-1 and submitted to the Planning and Community Development Department.
A. Comprehensive Plan Amendment without Zoning Map Amendment

1. Before making any recommendation on a plan amendment, the Planning Board must consider any recommendations from the Planning and Community Development Director, and must conduct a public hearing.

2. Notice and public hearing requirements must be provided in accordance with 30-4-1.4.
3. The applicant or a representative of the applicant is encouraged to appear at the meetings to explain why the Comprehensive Plan should be changed.

4. Following the close of the public hearing, the Planning Board shall make a recommendation on the amendment to the City Council.

5. If the Planning Board fails to make a recommendation within 45 days of an item being placed on a Board meeting agenda, City Council may proceed to hear the application.

B. **Comprehensive Plan Amendment with Zoning Map Amendment**

1. Before reviewing a plan amendment that is accompanied by a zoning map amendment, the Planning Board must consider any recommendations from the Planning and Community Development Director and comment on the proposed amendment.

2. If the accompanying zoning map amendment is given final approval by the Zoning Commission, the Comprehensive Plan amendment will be deemed automatically approved.

3. If the accompanying zoning map amendment is forwarded to City Council for final decision, the Planning Board’s comments on the proposed plan amendment must be provided to the City Council for their consideration and final decision on the Comprehensive Plan amendment.

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**30-4-3.6 Criteria for Planning Board Recommendations**

The recommendations of the Planning Board to the City Council must show that the Planning Board has studied and considered the proposed change in relation to the following, where applicable:

A. whether the proposed change would be consistent with the intent, goals, objectives, policies, guiding principles and programs of any adopted plans;

B. whether the proposed change would be compatible with the existing land use pattern and designated future land uses; and

C. whether the proposed change would meet the Comprehensive Plan amendment criteria.

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**30-4-3.7 City Council—Final Action**

The City Council must hold a public hearing on all applicable Comprehensive Plan amendments and take appropriate action following the hearing.

---

**30-4-3.8 Modification of Procedure**

At its discretion, the City Council may modify the Comprehensive Plan amendment procedures of this section.
30-4-4 Ordinance Text Amendments

30-4-4.1 General

The text of this ordinance may be amended, supplemented, changed, modified, or repealed in accordance with the procedures of this section.
30-4-4.2 Authority to File
A proposal to amend the text of this ordinance may be initiated by the City Council; any city board, commission, or department; or any person.

30-4-4.3 Filing
Proposals to amend the text of this ordinance must be prepared in accordance with the common review procedures of 30-4-1 and submitted to the Planning and Community Development Department.

30-4-4.4 Planning Board–Review and Recommendation
A. The Planning Board must hold a public hearing on all proposed text amendments except as provided in the Waiver of Procedure provisions of 30-4-4.6.
B. Following the close of the public hearing, the Planning Board may vote to recommend that the City Council approve, approve with revisions or deny the proposed text amendment. The Planning Board is also authorized to forward the proposed text amendment to the City Council with no recommendation.

30-4-4.5 City Council–Final Action
A. The City Council must hold a public hearing on all text amendments.
B. Following the close of the public hearing, the City Council shall vote to approve, approve with revisions or deny the text amendment.

30-4-4.6 Waiver of Procedure
At its discretion, the City Council may waive the text amendment procedures of this section (30-4-4) and process text amendments to this ordinance in accordance with procedural provisions of Article 19 of NCGS Chapter 160A and other applicable provisions of state law.

30-4-4.7 Continuance
The Planning Board or City Council may continue a text amendment for up to 2 months if the reason for the continuance is stated in the motion to continue. Continuances may be granted for a longer period if they are mutually agreed to by all affected parties. Upon failure of the Planning Board to act upon a text amendment following all proper continuances, or if no action is taken, the applicant may take the text amendment to the City Council without a recommendation from the Planning Board.

30-4-5 Zoning Map Amendments – All Zoning Districts

30-4-5.1 General
Zone boundaries as shown on the Official Zoning Map may be amended, supplemented, changed, modified, or repealed in accordance with the procedures of this ordinance.
30-4-5.2 Authority to File

A. **General Districts, Overlay Districts, or TN Districts**
   A proposal to amend the zoning map may be initiated by the City Council; any city board, commission, or department; or any person who resides or owns real property in the City of Greensboro.

B. **Conditional or Planned Unit Development Districts**
Only the property owners of all the property to be included in the district may apply for a zoning map amendment for a conditional or Planned Unit Development district.

C. **RM-40 Zoning Districts**
   A proposal to amend the zoning map to the RM-40 zoning district may only be initiated in designated Activity Centers or along major thoroughfares (see 30-6-2.2(F)).

### 30-4-5.3 Submittal Requirements

A. Zoning Map Amendment applications must be prepared in accordance with the common review procedures of 30-4-1 and submitted to the Planning and Community Development Department.

B. Zoning Map Amendment applications must be submitted to the Planning and Community Development Department at least 45 days before the meeting of the Zoning Commission at which the application is to be considered.

C. For zoning map amendments related to Historic Districts, see 30-4-12.1 and 30-4-12.2.

D. For zoning map amendments related to Planned Unit Developments, see 30-4-6.

E. Zoning map amendments for overlay districts have additional submittal requirements. For specific information on these requirements, see the applicable overlay district.
   1. Activity Center Overlay, see 30-7-8.3.
   2. Downtown Design Overlay, see 30-7-8.5.
   3. Historic District Overlay, see 30-7-8.6.
   4. Neighborhood Conservation Overlay, see 30-7-8.8.
   5. Pedestrian Scale Overlay, see 30-7-8.9(A).
   6. Scenic Corridor Overlay, see 30-7-8.10.
   7. Airport Overlay, see 30-7-8.2.
   8. Manufactured Housing Overlay, see 30-7-8.7.
   9. Central Business Overlay, see 30-7-8.4.
   10. Visual Corridor Overlay, see 30-7-8.11.

   (Amended by Ord. 15-105 on 8/3/15)

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### 30-4-5.4 Transportation Impact Study

A. **Applicability**

1. A Transportation Impact Study may be required by the City of Greensboro Department of Transportation for any development or property that has experienced a change in zoning classification after July 1, 1999 and is projected to generate 100 trips during the adjacent street AM or PM peak hour or 1,000 average daily trips.

2. A Transportation Impact Study is required for all developments that have experienced a change in zoning classification after July 1, 1999 and are projected to generate 150 trips during the adjacent street AM or PM peak hour or 1,500 average daily trips.

3. A Transportation Impact Study may be required for any redevelopment or change in use of an existing occupied development that has experienced a change in zoning classification after July 1, 1999 that would generate 100 additional trips during the adjacent street AM or PM peak hour or 1,000 additional daily trips.
4. A Transportation Impact Study is required when the subject development is expected to generate 150 additional trips during the adjacent street AM or PM peak hour or 1,500 additional daily trips, subject to the exemptions set out in 30-4-5.4(B).

5. When sufficient information on the proposed development is available for GDOT to determine that the aforementioned criteria is met, a Transportation Impact Study must be submitted with all preliminary plats, site plans, site plan revisions, Special Use Permit applications, conditional rezoning applications, and conditional original zoning applications where the proposed city zoning entails greater trip generation than does the existing county zoning.

6. Trip rates must be based on trip generation rates contained in the latest edition of Trip Generation published by the Institute of Transportation Engineers (ITE) or any local trip generation rates either published or approved by GDOT. Additional trips must be determined by subtracting the gross trip generation of the existing use from the gross trip generation of the proposed use. The additional trip calculation applies to property that is occupied at the time of submittal or has been occupied at any time prior to submittal.

7. If a development or property has experienced a change in zoning classification after July 1, 1999 and special circumstances exist, GDOT may require a Transportation Impact Study without regard to the expected trip generation of the development. Factors that would warrant such a requirement are:
   a. there are existing levels of service deficiencies in the area of the proposed development. ("Level of Service" as defined in the Highway Capacity Manual–Transportation Research Board Special Report 209); or
   b. available accident data and/or operational and geometric factors indicate safety concerns.

B. Exemptions

1. Notwithstanding the applicability thresholds above, a Transportation Impact Study is not required if the property to be rezoned or developed has been the subject of a Transportation Impact Study within the previous 3 years and the projected trip generation of the newly proposed development is equal to or less than the previous study performed and the trip distribution has not significantly changed.

2. Developments or properties that have not experienced a change in zoning classification since July 1, 1999 are not required to prepare a Transportation Impact Study as a part of their site plan approval; however, any such development projected to generate 100 trips during the adjacent street AM or PM peak hour or 1,000 average daily trips must provide traffic information and attend a pre-submittal conference with GDOT at least 21 days before site plan submittal. Together with the developer, GDOT will identify any areas of concern and/or issues that must be analyzed prior to site plan approval. The traffic information must be submitted to GDOT at least 3 business days prior to the pre-submittal conference and must include all of the following:
   a. preliminary site plan that includes a vicinity map and proposed layout for the development that shows the proposed and existing points of access in the area and the proposed traffic circulation plan;
   b. projected trip generation based on the ITE manual referenced above;
   c. projected trip distribution map showing the origin and destination of the development traffic; and
   d. schedule and proposed build-out year for the development.

C. Study Preparation

1. A licensed professional engineer who has completed the GDOT self-certification form must attend a presubmittal conference with GDOT and prepare the Transportation Impact Study. The draft
Transportation Impact Study must be submitted to GDOT at least 21 days before filing the zoning map amendment application.

2. The Transportation Impact Study must follow the guidelines prepared by GDOT. The Transportation Impact Study must address:
   a. the proposed land use,
   b. the trip generation of the proposed use,
   c. site access,
   d. modal splits, if appropriate,
   e. impacts on the transportation system from the proposed development, and
   f. physical improvements or enforceable management strategies to mitigate negative impacts.

3. At a minimum, the Transportation Impact Study must identify the improvements necessary to maintain Level of Service “D” for streets and intersections as defined in the Highway Capacity Manual - Transportation Research Board Special Report 209. GDOT will provide current traffic count information for use in Transportation Impact Studies if such counts are available.

4. The Transportation Impact Study must be reviewed and approved by GDOT before being considered by City Council or any planning agency of the city.

D. Improvements
   As a part of subdivision, site plan and driveway permit approval, the Technical Review Committee may require needed transportation improvements for the property requesting development approval; however, a Transportation Impact Study may not be utilized as a means for staff to require the party developing the property to make needed transportation improvements remote from the property for which the Transportation Impact Study is submitted, nor may identified deficiencies in level of service automatically be used to preclude approval of the proposed development.

30-4-5.5 Conditions–Conditional District

A. In a conditional district, conditions may specify the location on the property of the proposed use; the number of dwelling units; the location and extent of supporting facilities such as parking lots, driveways, and access streets; design elements of the proposed use; the location and extent of buffer areas and other special purpose areas; the timing of development; the location and extent of rights-of-way and other areas to be dedicated for public purposes; the alteration of streets to mitigate traffic and environmental impacts; use limitations; and other matters the applicant proposes as conditions upon the request.

B. Any conditions imposed in association with a conditional district and so authorized are perpetually binding upon the property included within the conditional district unless subsequently changed or amended as provided for in this section.

C. In approving a conditional district, the Zoning Commission or City Council may, with agreement of the applicant, impose more restrictive requirements than would otherwise be required by this ordinance and those in the application, as deemed necessary to ensure that the purposes and intent of this ordinance are met.

D. A new public hearing is required for consideration of a substantial change in conditions, as determined by the Planning and Community Development Director in accordance with the criteria of 30-4-5.10.

E. No condition on a conditional district application may have the effect of removing or amending any requirement of this ordinance.
F. Other than use conditions, no proposed condition can be a mere repetition of an already applicable requirement of this ordinance. The Planning and Community Development Director may order the removal of any such condition from the application.

G. The Planning Director may remove from the application any condition deemed unenforceable or unclear.

**30-4-5.6 Zoning Commission–Review and Recommendation/Decision**

A. The Zoning Commission must hold a public hearing on all zoning amendment applications.

B. Published, mailed and posted notice of the Zoning Commission’s public hearing must be provided in accordance with 30-4-1.4.

C. The Planning and Community Development Department must present the zoning map amendment application to the Zoning Commission, together with the Planning and Community Development Department’s recommendations, at the first regularly scheduled meeting following proper filing and notice of the application unless the case is continued (as per 30-4-5.16).

D. Following the close of the public hearing, the Zoning Commission shall take action on the amendment.

1. The Zoning Commission must advise and comment on whether the proposed amendment is consistent with the Comprehensive Plan, and it must adopt a written statement that addresses consistency between the proposed amendment and the Comprehensive Plan (and other matters as deemed relevant by the Zoning Commission) and explain why the Zoning Commission considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review. However, concluding that a proposed amendment is inconsistent with the Comprehensive Plan does not preclude approval of the proposed amendment.

2. Zoning map amendment applications that are accompanied by Comprehensive Plan amendments must be heard by the City Council unless the Zoning Commission approves the application by unanimous vote and that action is not appealed. If the accompanying zoning map amendment is given final approval by the Zoning Commission and that action is not appealed, the Comprehensive Plan amendment will also be deemed approved. Likewise, if a zoning map amendment that is accompanied by a Comprehensive Plan amendment is denied and that action is not appealed, the proposed plan amendment will also be deemed to have been denied.

3. For zoning map amendments that are consistent with the Comprehensive Plan, the Zoning Commission is authorized to take final action on the application. In such cases, 6 or more favorable votes from the Zoning Commission shall constitute final action to approve the application unless the action is appealed in accordance with paragraph (E), below. If no appeal is made, a copy of the ordinance rezoning the property is filed with the City Clerk.

4. When a zoning map amendment application receives a tie vote or an unfavorable vote from the Zoning Commission, that action constitutes denial of the application, unless appealed in accordance with paragraph (E), below.

5. When an application receives a majority favorable vote consisting of less than 6 favorable votes from the Zoning Commission, that action constitutes a recommendation to approve the zoning map amendment application and is forwarded to the City Council for final action.

E. Any final decision of the Zoning Commission on a zoning map amendment may be appealed to the City Council by any person in accordance with 30-4-1.6. Such appeals must be made within 10 days of the Zoning Commission’s decision by filing a written notice of appeal with the City Clerk or Planning and Community Development Department.
30-4-5.7 City Council–Final Action

A. The following zoning map amendment applications must be scheduled for public hearing before the City Council:

1. those that require a Comprehensive Plan amendment, as required by 30-4-5.6(D)2);
2. those that receive a majority favorable vote from the Zoning Commission consisting of fewer than 6 favorable votes;
3. all appealed zoning map amendment decisions of the Zoning Commission;
4. all original zoning map amendments; and
5. all establishments of and changes to overlay district boundaries.

B. The City Council must hear only those zoning map amendment applications that have been heard by the Zoning Commission. Upon receipt of recommendations, proper appeals, and any applications that have not been acted upon by the Zoning Commission as specified in the Continuance provisions of 30-4-5.16, the City Council must hold a public hearing on such applications.

C. Prior to approving or denying any zoning amendment application, the City Council must adopt a written statement that addresses consistency between the proposed amendment and the Comprehensive Plan (and other matters as deemed relevant by the City Council) and explains why the City Council considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review. However, concluding that a proposed amendment is inconsistent with the Comprehensive Plan does not preclude approval of the proposed amendment.

D. Except as provided for in 30-4-5.5 (Conditional District–Conditions) or 30-4-10.6 (Special Use Permits–Conditions), the City Council may not change or modify, or otherwise permit any change or revision to any application; however, the City Council may allow a reduction in size of the area of an application. Other changes or revisions to applications constitute a new application and must be resubmitted as a new application for zoning map amendment. After completion of the public hearing, the City Council must take such lawful action as it may deem advisable.

30-4-5.8 [Reserved]

(Amended by Ord. 15-121 on 9/15/15)

30-4-5.9 Successive Applications

A. No application for a zoning map amendment to the same district on a given property or portion thereof may be filed within a one-year period from:

1. the date of final action by the Zoning Commission or the City Council; or
2. the date of the public hearing or scheduled public hearing before the Zoning Commission if such application is withdrawn less than 24 days prior to such public hearing or scheduled public hearing.

B. No more than 2 zoning map amendment applications may be filed for a given property or portion thereof within any one-year period.

C. Any application for a zoning map amendment that is initiated by the City Council or Zoning Commission is not subject to the provisions of paragraphs (A), (B) and (C), above.

D. Any application for zoning map amendment that is initiated by the City Council or Zoning Commission will not be considered in determining the number of applications, their timing, filing, or any subsequent waiting periods for other applications as set forth in paragraphs (A) and (B), above.
30-4-5.10 Substantial Changes

A. The Planning and Community Development Director is authorized to determine when a development proposal constitutes a substantial change to a condition of approval imposed through the zoning map amendment, rezoning, special use permit or other development approval process, in accordance with the following regulations.

1. A change will be deemed substantial if it:
   a. decreases the number or extent of mixed-use features, including combinations of different land uses, integrated site design, strong pedestrian and vehicle connectivity, and strong orientation of buildings to streets (sidewalks);
   b. decreases use of compatible design features, including architectural styles and materials, signage and lighting, and site layout, among both internal development and with appropriate adjacent external development;
   c. decreases pedestrian features, including added sidewalks, crosswalks, bus stops, pedestrian amenities, small block site layout or internal and external pedestrian connections; or
   d. changes the use category permitted as per Table 8-1, within any portion of the development.

2. A change will not be deemed substantial if it reduces impacts on surrounding properties in one or more of the following ways:
   a. a greater than 10% decrease in the intensity of the land uses proposed on the site (e.g., number of housing units or gross floor area);
   b. a greater than 10% increase in proposed setbacks by locating the proposed buildings closer to internal property lines without increasing the setbacks of proposed buildings from public streets;
   c. a significant increase in the visually obscuring buffers along the perimeter of the site (not including toward streets) that includes preserved vegetation, added landscaping, walls and fences, or the use of topography;
   d. a decrease in the traffic impact due to a significant decrease or shift in the number, location or configuration of access points to or additional road improvements for the development; or
   e. a greater than 10% increase in the amount of usable or passive open space, tree preservation, greenways, or trails provided on the site.

30-4-5.11 Conditional District-Site Plans and Permits

Site plans for development allowed in a conditional district must be submitted for review in accordance with the site plan approval procedures of 30-4-15.

30-4-5.12 Conditional District–Amendments and Modifications

A. The Zoning Commission or City Council may make a substantial change or amendment to a conditional district, including changes or amendments to the types of uses allowed in the conditional district, using the criteria in 30-4-5.10, by following the same procedure as that required for the original approval of the conditional district. Requests to change or amend use regulations that apply in a conditional district may be considered without regard for when the conditional district was first approved or last amended.

B. The Planning Board may approve Type 3 Modifications in accordance with 30-4-11 for all other changes, provided that the modification does not change or amend the use category, as per Table 8-1, allowed in the conditional district.
30-4-5.13 Conditional District–Violation of Conditions

Any violation of a condition in an approved conditional district will be treated the same as any other violation of this ordinance and is subject to the same remedies and penalties as any such violation. Any violation of such a condition is deemed to be the same type of violation as the use of a property for a use not permitted under the district regulations, for the same reason that any use permitted in a conditional district is permitted only subject to the specified conditions.

30-4-5.14 Conditional District–Revocation

If for any reason any condition imposed pursuant to these regulations is found to be illegal or invalid, or if the applicant should fail to comply with any condition, proceedings must be instituted to rezone the property to its previous zoning classification or another zoning classification consistent with the Comprehensive Plan.

30-4-5.15 Application Withdrawal

A zoning map amendment application may be withdrawn by the applicant by filing a written notice of withdrawal with the Planning and Community Development Department at least 24 days before the Zoning Commission meeting at which the application is intended to be heard. Applications may be withdrawn after the 24-day period only by action of the Zoning Commission or City Council at the time of the scheduled public hearing on the subject application.

30-4-5.16 Continuance

The Zoning Commission or City Council may continue a zoning map amendment for up to 2 months if the reason for the continuance is stated in the motion to continue. Continuances may be granted for a longer period if they are mutually agreed to by all affected parties. Upon failure of the Zoning Commission to act upon an amendment following all proper continuances, the petitioner may take the amendment to the City Council without a recommendation from the Zoning Commission.

30-4-6 Zoning Map Amendments–Planned Unit Development Districts

30-4-6.1 General Procedure

Planned unit development districts are special forms of conditional districts. Zoning map amendment applications for a zoning map amendment to planned unit development districts are processed, considered, and voted upon in accordance with the procedures of 30-4-5, except as otherwise expressly stated in this section.

30-4-6.2 Filing

The planned unit development zoning map amendment application consists of the following materials:

A. A zoning map amendment application prepared in accordance with 30-4-5.

B. The concept plan approved by the Technical Review Committee for submission. This concept plan constitutes a map-based presentation of proposed zoning conditions attached to the conditional district zoning map amendment application.
30-4-6.3 Concept Plan

For the purpose of establishing conditions to be included with the conditional district application, zoning map amendment applications for a zoning map amendment to a planned unit development district must be accompanied by a concept plan for the entire property proposed to be included in the district. At minimum, the concept plan must include the elements listed below. Additional details may be added to the concept plan:

A. the general location and amount of land proposed for single-family residential, multi-family residential, office, commercial, industrial, open space/recreation, mixed use, and street use;
B. the maximum number of dwelling units or gross floor area and the acreage of each tract or area shown on the concept plan;
C. the maximum height of buildings and structures in each such tract or area;
D. the location and amount of land in special flood hazard areas and any other lands not suitable for development; and
E. proposed watershed protection measures, including their general location, if the development is within a Watershed Critical Area overlay district or a General Watershed Area overlay district.

30-4-6.4 Approval Process and Guidelines

A. The Technical Review Committee must review this concept plan for consistency with the requirements of the subdivision approval procedures of 30-4-17 and other applicable standards in this ordinance. The Technical Review Committee, upon finding such consistency, shall approve the concept plan for submission to the Zoning Commission in combination with an application for zoning map amendment.
B. Planned unit development districts are intended to help ensure that application of planned unit development requirements to the property will:
   1. produce a development of equal or higher quality than otherwise required by the strict application of district regulations that would otherwise govern;
   2. encourage innovative arrangement of buildings and open spaces to provide efficient, attractive, flexible, and environmentally sensitive design;
   3. produce a development functioning as a cohesive, unified project; and
   4. not substantially injure or damage the use, value, and enjoyment of surrounding property nor hinder or prevent the development of surrounding property in accordance with the adopted plans and policies of the City.

30-4-6.5 Effect of Approval

Approval of a zoning map amendment application and accompanying concept plan has the effect of establishing the maximum density/intensity, maximum height and general location of buildings and uses of each tract or area shown on the concept plan. Following approval of a zoning map amendment application, the applicant must prepare a Unified Development Plan in accordance with 30-4-6.6. For the purpose of establishing conditions to be included with the conditional district application, zoning map amendment applications for a zoning map amendment to a planned unit development district must be accompanied by a concept plan for the entire property proposed to be included in the district. At minimum, the concept plan must include the elements listed below. Additional details may be added to the concept plan:
30-4-6.6 Unified Development Plan Approval, Amendments and Modifications

A. Unified Development Plans
   The Unified Development Plan must contain the following materials:
   1. The concept plan with proposed phase lines, if any;
   2. The master sign plan or common sign plan in accordance with 30-14-11;
   3. Documents which specify proposed setbacks or other regulations governing building placement, and other information that the Planning Board may deem pertinent to plan approval. The applicant may use district regulations provided by this ordinance or may propose regulations unique to the development. In no case may the Unified Development Plan leave any area proposed for development unregulated.
   4. All phases must be shown on the Unified Development Plan and numbered in the expected order of development. The phasing must be consistent with the open space, traffic circulation, drainage, and utilities plans for the overall planned unit development.

B. Procedure
   Unified Development Plans must be reviewed by the Technical Review Committee for consistency with the concept plan and for compliance with all applicable provisions of this ordinance. Following review by the Technical Review Committee, the Unified Development Plan must be approved by the Planning Board.

C. Recordation of Approved Unified Development Plan
   The Unified Development Plan specified in (A) above must be recorded in the Office of the County Register of Deeds after Unified Development Plan approval and prior to any conveyance of the property, or portion thereof, or Final Plat recordation.

D. Amendments and Modifications
   1. The Planning Board is authorized to approve a substantial change or amendment to a Unified Development Plan using the criteria in 30-4-5.10, by following the same procedure as that required for the original approval of the Unified Development Plan.
   2. The Technical Review Committee may approve Type 2 Modifications in accordance with 30-4-11 for all other changes.

30-4-7 Zoning Map Amendments – Traditional Neighborhood Development Districts

30-4-7.1 General Procedure
   Traditional Neighborhood Development districts are special forms of conditional districts. Zoning map amendment applications for a zoning map amendment to Traditional Neighborhood Development districts are processed, considered, and voted upon in accordance with the procedures of 30-4-5, except as otherwise expressly stated in this section.

30-4-7.2 Preapplication Consultation
   A preapplication consultation must be held with staff in accordance with 30-4-1.1.
30-4-7.3 Neighborhood Participation

The applicant is encouraged to hold informative plan development and refinement meetings, or a charrette, at which residents and property owners in and near the affected property are invited to participate (see 30-4-1.2, Neighborhood Communication Summary).

30-4-7.4 Filing

The Traditional Neighborhood Development zoning map amendment application consists of the following materials:

A. A zoning map amendment application prepared in accordance with 30-4-5.

B. The Traditional Neighborhood Development Plan approved by the Technical Review Committee for submission. This Traditional Neighborhood Development Plan constitutes a map- and text-based presentation of proposed zoning conditions attached to the conditional district zoning map amendment application.

30-4-7.5 Traditional Neighborhood (TN) Development Plan

A. TN Development Plan Submittal Elements

The Traditional Neighborhood Development Plan includes the following elements and must be submitted to the Technical Review Committee in accordance with 30-4-1.3:

1. topographical map of the project site at 2 foot intervals;
2. list of project-specific land uses;
3. list of project-specific site design and development standards, which may include building setbacks, street and right-of-way types and widths.
4. location of streets and public open spaces;
5. location of existing and proposed residential, commercial, and civic buildings and lots;
6. location and amount of land in special flood hazard areas and any other lands not suitable for development;
7. general location of any proposed watershed protection measures; and
8. any other information required by the Technical Review Committee to demonstrate conformance with the Traditional Neighborhood District purposes and standards.

9. Architectural Standards

a. The inclusion of architectural standards is not a requirement for a TN district. However, their use is encouraged as a means to heighten sense of place, character, appearance, and property value.

b. A developer may choose to include architectural standards as part of the Traditional Neighborhood Development Plan.

c. If the developer desires to include architectural standards, they may be submitted at any stage in the development process for review and approval by the Technical Review Committee as being consistent with the Traditional Neighborhood Development Plan.

B. Technical Review of the Proposed TN Development Plan

The Technical Review Committee must review the proposed Traditional Neighborhood Development Plan for adherence to the purposes of the Traditional Neighborhood District and consistency with the requirements of all applicable standards in this ordinance and will forward its conclusions and recommendations to the Planning Board. Meeting minimum or maximum standards and/or guidelines will
not be, in and of itself, evidence of adherence to the purposes of the Traditional Neighborhood District or of good neighborhood planning.

C. Adoption of the TN Development Plan
   A public hearing shall be conducted by the Planning Board to review and consider for adoption the proposed Traditional Neighborhood Development Plan.

30-4-7.6 TN District Zoning Map Amendments

A. Submission of Zoning Map Amendment Application
   At any time after the submission of a proposed Traditional Neighborhood Development Plan, a zoning map amendment application may be submitted to request designation of a TN district. The Traditional Neighborhood District boundaries need not be coterminous with the boundaries of the Traditional Neighborhood planning area.

B. Application Contents
   A completed application for a zoning map amendment to establish or enlarge a TN district shall consist of the following elements:

   1. a zoning map amendment application; and
   2. the Traditional Neighborhood Development Plan approved by the Planning Board. That adopted Plan shall be referenced in any ordinance granting zoning to the subject land as a Traditional Neighborhood District, and thenceforth that adopted Plan shall be a standard to which conformance of development within the zone is measured.

C. Zoning Commission
   Once the completed application has been received, it must be scheduled for public hearing at the Zoning Commission.

30-4-7.7 Effect of Approval

A. Approval of a zoning map amendment application and accompanying Traditional Neighborhood Development Plan has the effect of establishing the maximum density/intensity, maximum height and general location of buildings and uses of each tract or area shown on the traditional neighborhood development plan.

B. Approved architectural standards, if any, must be enumerated in restrictive covenants recorded prior to the issuance of the first building permit, and enforced by the owners’ association.

30-4-7.8 Amendments and Modifications

A. The Planning Board may make a substantial change or amendment to a traditional neighborhood development plan, using the criteria in 30-4-5.10, by following the same procedure as that required for the original approval of the traditional neighborhood development plan.

B. The Technical Review Committee may approve Type 2 Modifications in accordance with 30-4-11 for all other changes.

30-4-7.9 Phased Development

Development occurring in phases shall meet the following requirements:

A. Numbering
All phases shall be shown on the adopted Traditional Neighborhood Development Plan and numbered in the expected order of development. Changes to the order of development may be approved by the Technical Review Committee.

B. **Final Plat Prerequisites**
No final plat for a phase of a Traditional Neighborhood Development may be approved unless:
1. All common facilities included in previous phases have been completed; and
2. There is no violation of the Traditional Neighborhood Development Plan in any previous phase.

### 30-4-8 Zoning Map Amendments--Overlay Zoning Districts

**Commentary:** In addition to following the procedures required for all zoning map amendments, overlay districts, including a design manual, must also be reviewed by the Planning Board, in accordance with 30-3-3.4(A3).

### 30-4-8.1 –ACO, Activity Center Overlay District

A. **Creating an Activity Center Master Plan**

1. **Who May Initiate**
   Application to develop an activity center master plan may be initiated by the City Council, Planning and Community Development Director, or by petition from any owner of property in or near an area designated as an Activity Center on the Comprehensive Plan’s Generalized Future Land Use Map.

2. **Application Requirements**
   Applications for creation of an activity center master plan must be filed with the Planning and Community Development Director in accordance with 30-4-1.3.

3. **Elements of the Activity Center Master Plan**
   The Planning and Community Development Director must prepare an activity center master plan for the proposed district. At minimum, the Plan must include the following information:
   a. statement of purpose and intent;
   b. a map that indicates the boundaries of the proposed activity center overlay district;
   c. a description of the type of activity center being created;
   d. New overlay district standards (including any modifications to underlying zoning standards). Standards may address: new use restrictions, building bulk or location requirements, on or off-street parking, landscaping and buffering, signs and lighting, and other site design and improvements elements.

B. **Master Plan Required**
Before an Activity Center Overlay district is established for any particular area, the Planning and Community Development Department must prepare a plan describing the conditions and boundaries of the Activity Center Overlay district. At minimum, the plan must address the following elements:
1. statement of purpose and intent;
2. a map that indicates the boundaries of the proposed activity center overlay district;
3. a description of the type of activity center being created;
4. a description of use limitations for the proposed activity center including location of various uses (if applicable); and

5. design manual with guidelines for new construction of any building and site improvements, or for improvements to existing buildings and sites.

C. **Plan and Design Manual Adoption**

The plan and design manual must be approved using the Comprehensive Plan Amendment procedure of 30-4-3 and the mail notice requirements of 30-4-1.4. The Planning Board must recommend a design manual for the overlay district plan specifying design standards for each major element. Standards may address new use restrictions, building bulk or location requirements, on or off-street parking, landscaping and buffering, signs and lighting, and other site design and improvements elements.

D. **Adoption of Overlay Zoning**

The -ACO, Activity Center Overlay district must be approved using the Zoning Map Amendment procedure of 30-4-5. The ordinance adopting the Overlay must contain the following:

1. A description of the type of activity center being established;
2. A statement adopting the activity center master plan if one has been developed;
3. Any use limitations imposed by the overlay district; and
4. A design manual, including any dimensional and other development standards imposed by the overlay district.

(Amended by Ord. 12-26 on 4/3/12)

**30-4-8.2 -DDO, Downtown Design Overlay**

A. **Initiating Overlay Zoning**

The –DDO, Downtown Design Overlay district must be approved using the zoning map amendment procedures of 30-4-5. The ordinance adopting the overlay district must contain the district boundaries.

B. **Design Manual Adoption**

The design manual for the overlay district specifying design standards for each major element must be approved using the text amendment procedures of 30-4-4 and the mailed notice requirements of 30-4-1.4. Standards may address new use restrictions, building bulk or location requirements, on- or off-street parking, landscaping and buffering, signs and lighting and other site design and improvement elements.

C. **Amendments to an Adopted Downtown Design Overlay District**

1. **Boundary of the District**

   Any amendment to the boundaries of the Downtown Design Overlay district shall be in accordance with the zoning map amendment procedures of 30-4-5.

2. **Content of the Design Manual**

   Any amendment to the contents of the Design Manual for the Downtown Design Overlay district shall be approved using the text amendment procedures of 30-4-4 and the mailed notice requirements of 30-4-1.4.

3. **Boundary of the District by Rezoning**

   Except as provided above, any property that abuts the Downtown Design Overlay district that is rezoned to the CB district after September 7, 2010 shall be included in the Downtown Design Overlay district.

D. **Modifications**

The Technical Review Committee, in order to help achieve compliance with the Downtown Design Manual, may grant Type 2 modifications in accordance with 30-4-11.
30-4-8.3 –HDO, Historic District Overlay

See 30-4-12.

30-4-8.4 –NCO, Neighborhood Conservation Overlay

A. Authority to Initiate Application

Applications for a Neighborhood Conservation Overlay District designation must be filed with the Planning and Community Development Department. An application may be initiated either:

1. by a petition (provided by the Planning and Community Development Department) signed by property owners representing at least 25% of the land area and at least 25% of the parcels within the proposed district; or

2. upon request by a property owner within the proposed district, pursuant to an adopted neighborhood or other area plan that recommends a Neighborhood Conservation Overlay district; or

3. by the City Council.

B. Application Requirements

When an application (provided by the Planning and Community Development Department) and boundary map are filed to establish a Neighborhood Conservation Overlay district, the Planning and Community Development Director must determine the eligibility of the area for Neighborhood Conservation Overlay designation in accordance with this subsection. An area is determined eligible for a Neighborhood Conservation Overlay designation if it satisfies all of the following application criteria:

1. Contains a minimum of one block face (all the lots on one side of a block);

2. At least 75% of the land area in the proposed district was developed at least 25 years prior to the application, and is presently developed; and

3. Where one or more of the following features is shared by a majority of the properties, creating a cohesive and distinctive setting, character or association:
   
a. scale, size, orientation, type of construction, or exterior building materials;
   
b. spatial relationships between buildings;
   
c. lot layouts, setbacks, street layouts, or alleys;
   
d. special natural or streetscape characteristics, such as creek beds, parks, greenbelts, gardens or street landscaping;
   
e. land use patterns, including mixed or unique uses or activities; or
   
f. abuts or links designated historic landmarks and/or districts.

C. Determination of Eligibility for NCO Designation

1. If, based on the criteria in subsection (B) above, the Planning and Community Development Director determines that the area is not eligible for a Neighborhood Conservation Overlay district designation, the applicants will be notified of this fact in writing, including stated reasons for the decision. The decision of the Planning and Community Development Director that an area is not eligible may be appealed to the Board of Adjustment, in accordance with 30-4-27.

2. If the Planning and Community Development Director determines that the area is eligible for designation as a Neighborhood Conservation Overlay District, the applicants will be notified of this decision and a Public Information meeting will be scheduled. The decision of the Planning and
Community Development Director that an area is eligible for a Neighborhood Conservation Overlay district may not be appealed.

D. **Public Information Meeting**

If the area is determined to be eligible for a Neighborhood Conservation Overlay district, the Planning and Community Development Director must schedule a public meeting for the purpose of informing property owners in the proposed district of the nature of the pending request. The Planning and Community Development Director must send notice of the date, time and place of the meeting by mail to all property owners within the proposed district and adjacent property owners. The city must initiate the preparation of a Neighborhood Conservation Plan within 60 days of the Public Information Meeting.

E. **Neighborhood Conservation Plan**

A Neighborhood Conservation Plan must be prepared by city staff with the assistance of representatives of the proposed district and include, at a minimum, the following information:

1. Statement of Purpose and Intent;
2. A map that indicates the boundaries of the proposed Neighborhood Conservation Overlay district;
3. A description of the relevant history of the area;
4. A description of the existing and common characteristics of the area, including zoning, land use, development, and distinguishing features of the proposed district (e.g. architectural styles, natural features, design features, institutions); and
5. Design guidelines for new construction of any building or site, or improvements to an existing building or site.

   a. The design guidelines may include elements governing the common physical characteristics and features of property (public or private) existing within the proposed district. The guidelines may also vary according to the type of land use (single-family, multifamily, commercial, etc.) and may decrease or increase standards (parking, landscaping, etc.). Elements of design established for the proposed district may include, but are not limited to, the following:

      i. building height, massing, and orientation;
      ii. principal elevation features, pattern and number of openings, building materials, and roofline and pitch;
      iii. dimensional requirements, setbacks, lot size, density, and floor area ratio;
      iv. parking and loading requirements, garage entrance location, driveways, and sidewalks;
      v. landscaping, fences and walls, lighting, and signage; and
      vi. general site planning for both primary and accessory structures.

   b. In order to accomplish the stated goals of the plan and maintain common characteristics of the proposed district, elements of design may only consider conditions currently prevalent throughout the proposed district. Additionally, design guidelines established for the proposed district may not regulate the following:

      i. interior alterations;
      ii. routine maintenance or repair of any structure or site feature;
      iii. demolition of any structure;
      iv. exterior paint colors; and
      v. types of land uses permitted by the underlying zoning district.
c. Once the Neighborhood Conservation Plan has been approved, proposed developments within the
district shall be reviewed by the Planning and Community Development Director to determine if
they meet the adopted guidelines set forth in the plan.

6. Upon completion of the proposed Neighborhood Conservation Plan, the Planning and Community
Development Director must schedule a public meeting for the purpose of informing property owners in
the proposed overlay district of the nature of any pending requirements. The Planning and Community
Development Director must send notice as provided in subsection (D) above. A petition (provided by
the Planning and Community Development Department) indicating support for the city to proceed to
public hearings must be filed with the Planning and Community Development Director within 6 months
of this public meeting. The petition to proceed must be signed by property owners representing at
least 51% of the land area and at least 51% of the parcels within the proposed district.

7. Adoption of a Neighborhood Conservation Overlay district requires an amendment to the official zoning
map. Upon receipt of a petition, the Planning and Community Development Director shall initiate the
Zoning Map amendment. The associated Neighborhood Conservation Plan must be approved by the
City Council at the same time that the map amendment is adopted.

F. Overlay District and Plan Approval

1. Plan and Design Manual Adoption
   The plan and design manual must be approved using the text amendment procedures of 30-4-4 and
   the mail notice requirements of 30-4-1.4. The Planning Board must recommend a design manual for
   the overlay district plan specifying design standards for each major element. Standards may address
   new use restrictions, building bulk or location requirements, on or off-street parking, landscaping and
   buffering, signs and lighting, and other site design and improvements elements.

2. Adoption of Overlay Zoning
   The –NCO, Neighborhood Conservation Overlay district must be approved using the Zoning Map
   Amendment procedure of 30-4-5.

G. Amendments to an Adopted Neighborhood Conservation Overlay District
   Any proposal to amend, modify or dissolve any district boundaries or design guidelines in an adopted
   Overlay district or Neighborhood Conservation Plan is subject to the following:

   1. Any proposal to add parcels to an adopted Neighborhood Conservation Overlay district shall be the
      same as the application and adoption procedures for the original Neighborhood Conservation Overlay
district except that a separate Neighborhood Conservation Plan will not be required. The original
   Neighborhood Conservation Plan for the district can be amended to incorporate the expansion.

   2. Any proposal to subtract individual parcels or dissolve a district in its entirety from an adopted
   Neighborhood Conservation Overlay district requires:
      a. A new petition to subtract individual parcels or dissolve a district in its entirety must be signed by
         property owners representing at least 25% of the land area and at least 25% of the parcels within
         the existing district; or at the request of the City Council.

      b. A Public Information Meeting scheduled by the Planning and Community Development Director for
         the purpose of informing property owners in the existing district of the nature of the pending
         request. The Planning and Community Development Director must send notice of the date, time
         and place of the meeting by mail to all property owners within the proposed district and adjacent
         property owners.

      c. Following the Public Information Meeting, a petition to proceed must be signed by property owners
         representing at least 51% of the land area and at least 51% of the parcels within the existing
district.

      d. An amendment to the official zoning map.
e. The amendment shall be forwarded, with the recommendations of the Planning Board and Zoning Commission following public hearings, to the City Council for approval.

f. The City Council must hold a public hearing to consider the amendment.

3. Any proposal to amend a Neighborhood Conservation Plan requires:

a. A new petition to amend a Neighborhood Conservation Plan must be signed by property owners representing at least 25% of the land area and at least 25% of the parcels within the existing district; or at the request of the City Council.

b. A Public Information Meeting scheduled by the Planning and Community Development Director for the purpose of informing property owners in the existing district of the nature of the pending request. The Planning and Community Development Director must send notice of the date, time and place of the meeting by mail to all property owners within the proposed district and adjacent property owners.

c. If the new application was initiated by a petition, then following the Public Information Meeting a petition to proceed must be signed by property owners representing at least 51% of the land area and at least 51% of the parcels within the existing district.

d. The amendment shall be forwarded, with the recommendations of the Planning Board and Zoning Commission following public hearings, to the City Council for approval.

e. The City Council must hold a public hearing to consider the amendment.

(Amended by Ord. 12-26 on 4/3/12)

30-4-8.5 –PSO, Pedestrian Scale Overlay

A. Corridor Plan Required
Before a Pedestrian Scale Overlay District is established for any particular area, the Planning and Community Development Department must prepare a plan describing the conditions and boundaries of the Pedestrian Scale Overlay district. At minimum, the plan must address the following elements:

1. The physical qualities of the area that make it a unique location for pedestrian-oriented businesses and residences and the prevailing elements of the area that establish the character of the district and subsequently require special consideration (e.g., typical setbacks, building heights, lot coverage, street width, and parking);

2. Standards of the underlying zoning district that must be modified in order to maintain the pedestrian scale character of the area (for example, off-street parking requirements, landscaping requirements, sign regulations); and

3. Transportation systems that provide access to the area (for example, vehicular access, public transit.)

B. Plan Approval
The plan must be approved using the Comprehensive Plan Amendment procedure of 30-4-3 and the mail notice requirements of 30-4-1.4.

C. Design Manual Adoption
The Planning Board must recommend a design manual for the overlay district specifying design standards for each major element. Standards may address new use restrictions, building bulk or location requirements, on or off-street parking, landscaping and buffering, signs and lighting, and other site design and improvements elements. The design manual must be approved using the text amendment procedures of 30-4-4 and the mailed notice requirements of 30-4-1.4.

D. Initiating Overlay Zoning
The -PSO, Pedestrian Scale Overlay District must be approved using the Zoning Map Amendment procedure of 30-4-5. The ordinance adopting the Overlay must contain the district boundaries.

(Amended by Ord. 12-26 on 4/3/12)

30-4-8.6 –SCO, Scenic Corridor Overlay

A. Corridor Plan Required
Before a Scenic Corridor Overlay District is established for any particular road, the Planning and Community Development Department must study the conditions and length of the corridor. At minimum, the corridor plan must consider the following elements in determining the length of the corridor:

1. The type and arrangement of land uses along the corridor;
2. The unique qualities of the corridor, such as landmark buildings, views and vistas, and natural features which merit special consideration or protection;
3. The value of the corridor as an entryway to the city which influences the perception of individuals or firms considering residence or investment in the community;
4. Transportation (e.g. vehicular access, dedication of right-of-way, driveway limitations, and traffic impacts); and
5. The standards of the underlying zoning district(s) that must be modified in order to maintain the scenic character of the area (for example, off-street parking requirements, landscaping requirements, sign regulations).

B. Corridor Plan Approval
The corridor plan and design manual must be approved using the text amendment procedure of 30-4-4 and the mail notice requirements of 30-4-1.4.

C. Initiating Overlay Zoning
The -SCO, Scenic Corridor Overlay District must be approved using the Zoning Map Amendment procedure of 30-4-5.

(Amended by Ord. 12-26 on 4/3/12)

30-4-8.7 –AO, Airport Overlay

A. District Boundaries
The Airport Overlay District consists of all lands within the 60 DNL Noise Contour Area around Piedmont Triad International Airport, as delineated on the Zoning Map.

B. Split-Zoned Tracts
When a tract is split by the boundary of the airport overlay district, development on that entire tract is considered exempt from the provisions of this overlay district. In this case, the overlay district boundary will be considered as following along the property line of the tract that is fully inside the overlay district. However, in no case should the shifting of the overlay boundary to a property line have the effect of moving it more than 600 feet from the boundary location as indicated on the Zoning Map.

C. Modification of District Boundaries
Except as provided in (B) above, any amendment to the boundaries of the Airport Overlay district must be approved using the Zoning Map Amendment procedure of 30-4-5 and the mail notice requirements of 30-4-1.4.

(Amended by Ord. 12-26 on 4/3/12)
30-4-8.8 –MHO, Manufactured Housing Overlay

The -MHO, Manufactured Housing Overlay District must be approved using the Zoning Map Amendment procedure of 30-4-5. In addition, the following information is required:

A. In requesting the establishment of a Manufactured Housing Overlay District, the applicant must present factual information to ensure, in the opinion of the Zoning Commission and the City Council, that property values of surrounding properties are protected, that the character and integrity of the neighborhood are adequately safeguarded, and the purposes of the overlay district are met.

B. To ensure acceptable similarity in exterior appearance between proposed manufactured dwellings and dwellings that have been constructed on adjacent or nearby lots, an applicant may choose to attach present examples of the types and design of such proposed dwellings.

(Amended by Ord. 12-26 on 4/3/12)

30-4-8.9 –CBO, Central Business Overlay

The ordinance text amendment procedures of 30-4-4 and the mail notice requirements of 30-4-1.4 apply.

(Amended by Ord. 12-26 on 4/3/12)

30-4-8.10 –VCO, Visual Corridor Overlay

The ordinance text amendment procedures of 30-4-4 and the mail notice requirements of 30-4-1.4 apply.

(Amended by Ord. 12-26 on 4/3/12)

30-4-8.11 –GWA, General Watershed Overlay

The ordinance text amendment procedures of 30-4-4 apply.

30-4-8.12 –WCA, Watershed Critical Area Overlay

The ordinance text amendment procedures of 30-4-4 apply.

30-4-8.13 –OWA, Other Watershed Area Overlay

The ordinance text amendment procedures of 30-4-4 apply.

30-4-8.14 -GO, Greenway Overlay

A. **Plan Required**

Before a Greenway Overlay District is established for any particular area, the Department of Planning and Community Development must prepare a plan describing the conditions and boundaries of the Greenway Overlay District. At minimum, the plan must address the following elements:

1. The physical qualities of the greenway, the types and accessibility that make the area suitable for greenway users, and the prevailing elements of the area that establish the character of the district and may subsequently require special consideration (e.g. typical setbacks, greenway width, existing outdoor uses, adjacent land uses, and parking);

2. Standards of the underlying zoning district that must be modified in order to maintain or enhance the ability of greenway users to access the area (e.g. bike rack requirements, landscaping/screening requirements, sign regulations, building orientation, building materials, connectivity with the greenway); and
3. The interaction of transportation systems that provide access to the area.

B. **Plan Approval**
   The plan must be approved using the Comprehensive Plan Amendment procedure of 30-4-3 and the mail notice requirements of 30-4-1.4.

C. **Design Manual Adoption**
   The Planning Board must recommend a design manual for the overlay district specifying design standards or guidelines for each major element. Standards or guidelines may address new use restrictions, bike rack requirements, landscaping/screening requirements, sign regulations, building orientation, building material, connectivity with the greenway, and other site design and improvements elements. The design manual must be approved using the text amendment procedures of 30-4-4 and the mail notice requirements of 30-4-1.4.

D. **Initiating Overlay Zoning**
   The -GO, Greenway Overlay District must be approved using the Zoning Map Amendment procedure of 30-4-5. The ordinance adopting the Overlay must contain the district boundaries.

E. **Amendments and Modifications**
   1. The Planning Board may make a substantial change or amendment to the adopted design manual, using the criteria in 30-4-5.10, by following the same procedure as that required for the original approval of the design manual.
   2. The Zoning Commission may make a change to the boundary of the district by following the same procedure for establishing the district.
   3. The Technical Review Committee may approve Type 2 Modifications in accordance with 30-4-11 for all other changes.

   (Amended by Ord. 11-143 on 7/19/11 and Ord. 12-26 on 4/3/12)

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**30-4-9 Establishment of Original Zoning**

The procedure for establishment of original zoning—applied at the time additional territory is brought under the jurisdiction of this ordinance by annexation or otherwise—is the same as required under the Zoning Map Amendment procedures of 30-4-5 with regard to common review procedures (see 30-4-1) and continuance and follows the Ordinance Text Amendment procedures of 30-4-4 with regard to voting by the Zoning Commission and action by the City Council. When the City Council initiates the original zoning, it is not necessary to provide a metes and bounds description, provided that local government planning maps clearly delineate the area involved and the proposed zoning classification. The maps must be filed with the City Clerk upon adoption.
30-4-10.1 Authority to File

An application for a special use permit must be signed by the owner of the subject property.
30-4-10.2 Filing

An application for special use permit must be prepared in accordance with the common review procedures of 30-4-1 and submitted to the Planning and Community Development Department at least 38 days before the meeting of the Zoning Commission at which such an application is to be considered.

30-4-10.3 Procedure

Applications for special use permits must be processed, considered, and voted upon in accordance with the Zoning Map Amendment procedures of 30-4-5, except as otherwise expressly stated in this section.

30-4-10.4 Evidence at Hearing

All evidence presented at public hearings on special use permits must be under oath.

30-4-10.5 Required Findings

A. The special use permit must be granted by the Zoning Commission or City Council when all of the following findings have been made:

1. That the proposed use will not be detrimental to the health or safety of persons residing or working in the vicinity or injurious to property or improvements in the vicinity;
2. That the proposed use at the particular location provides a service or facility that will contribute to the general well-being of the neighborhood or the community; and
3. That the location and character of the proposed use will be in harmony with the area in which it is to be located and in general conformity with the Comprehensive Plan.

B. If the Zoning Commission or City Council does not make these findings, then the special use permit may not be granted.

C. Review Factors

The applicant must demonstrate that the review factors listed below have been adequately addressed. If an application is denied, the decision-making body must specify which of these review factors were not adequately addressed.

1. Circulation
   Number and location of access points to the property and the proposed structures and uses, with particular reference to automotive, bicycle, mass transit and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

2. Parking and Loading
   Location of off-street parking and loading areas.

3. Service Entrances and Areas
   Locations of refuse and service areas with particular reference to ingress and egress of service vehicles.

4. Lighting
   Locations of exterior lighting with reference to glare, traffic safety, economic effect and compatibility with other property in the area.

5. Signs
   Appropriateness of signs considering location, height, size, and design within the context of other property in the area.

6. Utilities
Location and availability of utilities.

7. **Open Spaces**
   Location of required yards and other open spaces and preservation of existing trees and other natural features.

8. **Environmental Protection**
   Preservation of tree cover, floodplain, stream buffers, wetlands, steep slopes, open space and other natural features, and protection of water quality.

9. **Screening, Buffering and Landscaping**
   Installation of screening, buffering, fencing and landscaping where necessary to protect adjacent property.

10. **Effect on Adjacent Property**
    Effects of the proposed use on nearby property, including, but not limited to, the effects of noise and odor.

11. **Compatibility**
    The level of general compatibility with nearby properties and the appropriateness of the use in relationship to other properties.

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**30-4-10.6 Greater Restrictions**

In granting a special use permit, the Zoning Commission or City Council may impose more restrictive requirements as deemed necessary to advance the purposes and intent of this ordinance, provided that such requirements are directly related to the impacts of the proposed use.

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**30-4-10.7 Permit Perpetually Binding**

Unless expired or discontinued, approved special use permits must be perpetually binding upon the property unless subsequently changed or amended in accordance with this section or a use otherwise permitted in the zoning district is established.

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**30-4-10.8 Amendments and Modifications**

A. The Zoning Commission or City Council may make a substantial change or amendment to a special use permit, using the criteria in 30-4-5.10, by following the same procedure as that required for the original approval of the special use permit.

B. The Planning Board may approve Type 3 modifications in accordance with 30-4-11 for all other changes.

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**30-4-10.9 Cancellation of Permit**

If for any reason any restriction imposed pursuant to these regulations is found to be illegal or invalid, such special use permit immediately becomes null and void and of no effect.

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**30-4-10.10 Violation of Permit Restrictions**

Any violation of a restriction in an approved special use permit must be treated the same as any other violation of this ordinance, subject to the same remedies and penalties as any such violation. The Zoning Commission or City Council may, after a hearing, revoke such permit on all or part of a development if it finds that the violation was intentional, was continued for an unreasonable time, or was substantially inconsistent with the purpose and intent of the permit.
30-4-10.11 Permit Duration

A. Authorization of a special use permit is void after 2 years or such lesser time as the authorization may specify unless use of the property has begun and/or a footing inspection has been passed.

B. If any special use is discontinued for a period exceeding 18 months or replaced by a use otherwise permitted in the zoning district, it shall be deemed abandoned and the special use permit shall be null and void and of no effect. The owner must demonstrate that the special use has not been discontinued for a period exceeding 18 months or has not been replaced by a use otherwise permitted to maintain a valid special use permit.

30-4-10.12 Successive Applications

Successive applications for the same special use permit on a given property may be made after one year has passed since the date of the final action on the previous special use permit.

30-4-10.13

Final decisions made by the Zoning Commission or the City Council may be appealed within 30 days to the Guilford County Superior Court who must hear the appeal on the record.

(Amended by Ord. 13-122 on 9/17/13)

30-4-11 Modifications

30-4-11.1 Purpose

Recognizing that it is sometimes possible to provide equal or better performance in furtherance of the purposes of this ordinance through use of means other than those specified in this ordinance, the City Council finds it to be reasonably necessary and expedient that provisions be made for limited flexibility in administration of certain standards in this ordinance.

30-4-11.2 Description

A. There are 5 classes of Modifications: Type 1, Type 2, Type 3, Type 4 and Type 5. These modifications are specified technical exceptions that may be approved without going through the Variance process. Approval is limited to the specified exceptions and adjustments expressly authorized by this ordinance only when the general criteria of 30-4-11.3 have been met.

B. The different types of modifications correspond to the increasing sensitivity or impact differential of the proposed change, or the authority responsible for approving the modification. The level of review—ranging from Type 1 to Type 5—is generally intended to be commensurate with the degree of deviation and/or the anticipated impacts of the requested modification.

1. **Type 1 Modifications**
   Final decision-making authority on Type 1 Modifications rests with the department director with general responsibility for administering and interpreting the subject regulation or standard. Type 1 Modifications involve modifications to regulations and standards that are very minor (*de minimis*) in nature. Regulations and standards are eligible for modification through the Type 1 procedure only when expressly authorized by this ordinance.

2. **Type 2 Modifications**
   The Technical Review Committee is authorized to approve most Type 2 Modifications, which involve modifications to regulations and standards that are similar to type 1 modifications but which benefit
from inter-agency review. Regulations and standards are eligible for modification through the Type 2 procedure only when expressly authorized by this ordinance.

3. **Type 3 Modifications**
The Planning Board is authorized to approve Type 3 Modifications after review by the Technical Review Committee. Type 3 modifications involve changes or amendments to conditional zoning districts and special use permits. Regulations and standards are eligible for modification through the Type 3 procedure only when expressly authorized by this ordinance.

4. **Type 4 Modifications**
The City Council is authorized to approve Type 4 Modifications after review by the Technical Review Committee and Planning Board. Regulations and standards are eligible for modification through the Type 4 procedure only when expressly authorized by this ordinance.

5. **Type 5 Modifications**
The North Carolina Environmental Management Commission is authorized to approve Type 5 Modifications after review by the Technical Review Committee, Planning Board and the City Council. Type 5 modifications involve modifications to major watershed standards, and state law requires that such decisions be made by the Environmental Management Commission. Regulations and standards are eligible for modification through the Type 5 procedure only when expressly authorized by this ordinance.
30-4-11.3 Decision-making Criteria

A. **Type 1, Type 2, Type 3 and Type 4 Modifications**

The proposed modification must be made with regard to the purpose of the standard or regulation being modified, this ordinance, and the Comprehensive Plan. Type 1, Type 2, Type 3 or Type 4 Modifications may be approved if the authorized decision-making body determines that at least one of the following criteria are met:

1. that the proposed modification will result in equal or better performance than the standard being modified;
2. that the size, topography, or existing development of the property or of adjoining areas prevents compliance with a standard; or

3. that a federal, state, or local law or regulation prevents compliance with the standard.

B. Perimeter Setback Requirements in RM-26 and RM-40

For townhouse and multi-family buildings located in the RM-26 and RM-40 zoning districts, the Planning and Community Development Director may approve a Type 1 Modification allowing a reduction of up to 5 feet of the perimeter setback requirement, but in no case below 15 feet, if any of the following criteria are met:

1. The setback being modified abuts a parcel that is in a zoning district of equal or higher density;
2. The setback being modified abuts a collector or higher classification of roadway; or
3. The setback being modified abuts land that is not occupied by a residential use.

C. Type 1 Modifications to Tree Conservation and Landscaping Requirements

1. Alternate tree conservation plans, plant materials, planting methods or reforestation may be authorized when unreasonable or impractical situations would result from application of landscaping or tree conservation requirements. Such situations may result from streams, natural rock formations, topography, or other physical conditions; or from lot configuration, utility easements, unified development design, or unusual site conditions.

2. The Planning and Community Development Director may approve an alternate plan that proposes different plant materials or methods provided that quality, effectiveness, durability, and performance are equivalent to that required by this section. The performance of alternate landscaping plans or tree conservation plans must be reviewed by the Planning and Community Development Director to determine if the alternate plan meets the intent and purpose of this section. This determination must take into account the use of adjacent property, number of plantings, species, arrangement and coverage, location of plantings on the lot, and the level of screening, height, spread, and canopy of the plantings at maturity.

3. Decisions of the Planning and Community Development Director regarding alternate methods of compliance for landscaping, tree conservation and reforestation may be appealed to the Technical Review Committee as requests for modifications.

4. Appeals from decisions of the Technical Review Committee may be taken to the Planning Board.

(Amended by Ord. 12-114 on 10/2/12 and Ord. 14-34 on 3/18/14)

D. Type 5 Modifications

The authorized decision-making body may approve Type 5 Modifications if all of the following 3 findings are made:

1. there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the decision-making body must find that all 5 of the following conditions exist:
   a. that the applicant can secure no reasonable return from, nor make reasonable use of their property if subject to strict compliance with the subject provisions. Merely proving that the modification would permit a greater profit to be made from the property will not be considered adequate to justify the granting of a modification. Moreover, the decision-making body must consider whether the modification is the minimum possible deviation from the terms of the ordinance that will make possible the reasonable use of the subject property;
   b. the hardship results from the application of the ordinance to the property rather than from other factors such as deed restrictions or other hardship;
c. the hardship is due to the physical nature of the applicant’s property, such as its size, shape, or topography, which is different from that of neighboring property;

d. the hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the ordinance, or who purchases the property and then applies for relief; and

e. the hardship is peculiar to the applicant’s property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a modification would be a special privilege denied to others, and would not promote equal justice.

2. the modification is in harmony with the general purpose and intent of the ordinance and preserves its spirit; and

3. in the granting of the modification, the public safety and welfare have been assured and substantial justice has been done. The decision-making body may not grant a modification if it finds that doing so would in any respect impair the public health, safety, or general welfare.

30-4-11.4 Submittal Requirements

A. Modification requests must be submitted to the Planning and Community Development Department.

B. Requests must be submitted at the appropriate time, and the burden is on the applicant to demonstrate that the criteria in 30-4-11.3 have been met.

30-4-11.5 Review and Decision-Making Bodies

A. Department Directors
Final decision-making authority on Type 1 Modifications rests with the department director with general responsibility for administering and interpreting the subject regulation or standard. Standards and regulations eligible for modification through the Type 1 Modification procedure are expressly identified in the text of this ordinance. In addition, the Planning and Community Development Director is authorized to approve, as a Type 1 Modification, an adjustment to zoning district setback requirements by up to one foot, when a building permit has been issued and there was an unintentional error of the Engineering and Inspections Director in verifying the location of a structure on the property, provided the purpose and intent of the ordinance is not impaired.

B. Technical Review Committee
1. The Technical Review Committee has final decision-making authority on all Type 2 Modifications. Standards and regulations eligible for modification through the Type 2 Modification procedure are expressly identified in the text of this ordinance.

2. The Technical Review Committee must review and make recommendations on all of the following:
   a. applications for Type 4 and Type 5 Modifications of Water Supply Watershed standards; and
   b. all applications for Type 3 Modifications of conditions attached to a Conditional Zoning District or Special Use Permit.

C. Planning Board
1. The Planning Board has final decision-making authority on all Type 3 Modifications. Standards and regulations eligible for modification through the Type 3 Modification procedure are expressly identified in the text of this ordinance.

2. The Planning Board also reviews and makes recommendations on all Type 4 and Type 5 Modifications.
D. **City Council**

1. The City Council has final decision-making authority on all Type 4 Modifications. Standards and regulations eligible for modification through the Type 4 Modification procedure are expressly identified in the text of this ordinance.

2. The City Council must review and make recommendations on all Type 5 Modifications. Standards and regulations eligible for modification through the Type 5 Modification procedure are expressly identified in the text of this ordinance.

(Amended by Ord. 12-114 on 10/2/12)

### 30-4-11.6 Decision-making Authority–Final Action

A. **Approval**

Applications for Modifications that satisfy the approval criteria listed in 30-4-11.3 may be approved by the authorized decision-making body.

B. **Conditions**

The decision-making body approving a modification must seek to ensure that the use of the property will be compatible with surrounding properties and will not alter the essential character of the neighborhood. Additional conditions may be imposed by the authorized decision-making body for Type 3 and Type 4 Modifications of a Water Supply Watershed standards. Violations of conditions and safeguards that are part of the terms of modification approval constitute a violation of this ordinance.

### 30-4-11.7 Modification of Water Supply Watershed Standards

A. **Type 5 Modifications–Major Modifications**

Recognizing that modifications to watershed standards are only approvable in unique circumstances on a case-by-case basis by the North Carolina Environmental Management Commission pursuant to the North Carolina Administrative Code 15A, North Carolina Administrative Code 02B, 0104(r) of the North Carolina Department of Environment and Natural Resources (NCDENR) “Redbook,” the City Council hereby designates the North Carolina Environmental Management Commission as the final decision-making body for Type 5 modifications. The approval procedure is the same as in 30-4-11.5

B. **Notification of Other Affected Jurisdictions**

For each request for a Type 3, Type 4 or Type 5 Modification to watershed standards, the Planning and Community Development Director must notify all other local governments having jurisdiction within the same water supply watershed or using the affected water supply for consumption at least 14 days before the Planning Board hearing.

C. **Annual Report**

A report containing a description of each project receiving a modification of watershed standards and the reasons for approval of the modification must be sent to the North Carolina Environmental Management Commission on an annual basis by January 1.

(Amended by Ord. 10-161 on 12/1/10)

### 30-4-11.8 Appeals of Modification Final Action

A. Appeals of Type 1 Modification final actions by the appropriate director may be made to the Technical Review Committee and subsequently to the Planning Board and the City Council.

B. Appeals of Type 2 Modification final actions by the Technical Review Committee may be made to the Planning Board and City Council.

C. Appeals of Type 3 Modification final actions by the Planning Board may be made to the City Council.
30-4-11.9 Duration of Approval

An approved modification is part of an approved plan and has the same duration as the plan approval.
(Amended by Ord. 10-156 on 10/19/10, Ord.10-161 on 12/1/10)

30-4-12 Local Historic District Overlays and Landmarks
30-4-12.1 Local Historic Overlay District Designation
A. **Applicability**
An area may be considered for designation as a local historic district overlay only after the Historic Preservation Commission (HPC) deems and finds that an area is of special significance in terms of its prehistorical, historical, architectural or cultural importance, and possesses integrity of design, setting, materials, feeling and association.

B. **Authority to File**
Applications for local historic overlay district designation may be initiated by any applicant.

C. **Preapplication Conference**
A preapplication conference with Planning and Community Development Director is required.

D. **Filing**
Applications for local historic overlay district designation must be prepared in accordance with the common review procedures of 30-4-1 and submitted to the Housing and Community Development Department.

E. **Planning and Community Development–Review and Recommendation**
Planning and Community Development staff must review the application and make a determination as to whether or not the area meets the general criteria for local historic overlay district designation in paragraph 30-4-12.1(A), above.

F. **Historic Preservation Commission–Review and Recommendation**

1. After completion of their investigation of an area's cultural and historic significance, Planning and Community Development staff must present the local historic district designation application along with their recommendation to the Historic Preservation Commission. Housing and Community Development staff must provide a recommendation as to whether or not the area meets the general criteria for local historic district designation in paragraph 30-4-12.1(A), above.

2. The Historic Preservation Commission must review the application and staff recommendation to determine if an area meets the requirements for historic district overlay designation in paragraph 30-4-12.1(A), above. If the Historic Preservation Commission determines that the requirements are met, they must direct that a study be conducted of the proposed district and a report prepared describing the significance of the buildings, structures, features, sites, or surroundings to be included in the proposed district. The report must contain a description of the boundaries of the proposed district.

3. The Historic Preservation Commission must submit the report to the North Carolina Department of Cultural Resources through the State Preservation Officer (SHPO) for review. The State Preservation Officer shall make a recommendation concerning the report and the description of proposed boundaries. The State Preservation Officer has 30 days to respond with a written analysis and recommendation. Failure of the State Preservation Officer to respond to the City within 30 days after receipt of the application shall relieve the City of any responsibility to await such analysis.

4. Following the receipt of any analysis and recommendation from the State Preservation Officer, a public hearing before the Historic Preservation Commission must be scheduled and advertised in accordance with 30-4-1.4. All property owners in the proposed district must be notified.

5. The Historic Preservation Commission holds a public hearing and makes a recommendation to approve or deny the application for local historic district overlay designation.

6. The Historic Preservation Commission recommendation and all information relating to the application must be forwarded to the Planning Board and Zoning Commission for review and recommendation.

G. **Planning Board–Review and Recommendation**
The Planning Board must hold a public hearing concerning the local historic district overlay designation report along with comments from the SHPO (if applicable) and the Historic Preservation Commission. The Planning Board may not review or comment on the proposed overlay district boundaries. Following the public hearing, the Planning Board must make a recommendation to the Zoning Commission to approve or deny the application.
H. Zoning Commission–Review and Recommendation
The Zoning Commission must hold a public hearing concerning the local historic overlay district designation report to review only the proposed boundaries of the historic district overlays. The Zoning Commission may receive any applicable comments from the Historic Preservation Commission or SHPO. Following the public hearing, the Zoning Commission must make a recommendation to the City Council to approve or deny the overlay district zoning map amendment.

I. City Council–Final Action
1. The Planning and Community Development Director must present the local historic district overlay designation application to the City Council, together with recommendations from the State Preservation Officer, Historic Preservation Commission, Planning Board, and Zoning Commission, at the first regularly scheduled hearing following proper filing and notice of the application.
2. The City Council holds a public hearing and takes final action on the report and Zoning Map Amendment for local historic overlay district designation.

J. Other Review Entities–Review and Recommendations
The City Council may also refer the report and proposed boundaries to any local preservation organization or other interested body for review and recommendations prior to taking action.

K. Amendment or Repeal of a Historic Overlay
Amendment of the boundaries of a historic district overlay or repeal of a historic district must be processed in the same manner as required for initial designation of a historic district overlay.

L. Historic District Design Guidelines
1. The Historic Preservation Commission must adopt guidelines for each historic district overlay. These guidelines may be the existing City of Greensboro Historic District Program Manual and Design Guidelines, and/or separate guidelines for the new historic district overlays.
2. The Guidelines should take into account the historic, architectural, and visual elements of the district.
3. At a minimum, the Guidelines should consider the following factors:
   a. Historic Significance or Quality
      The quality or significance in history, architecture, archeology, or culture present in districts, sites, structures, buildings, or objects that possess integrity of location, design, setting, materials, workmanship, and feeling and association:
      i. that are associated with events that have made a significant contribution to the broad patterns of local, state, or national history; or that are associated with the lives of persons significant in the past; or
      ii. that embody the distinctive characteristics of a type, period, or method of construction; or
      iii. that represent the work of a master or that possess high artistic values; or
      iv. that represent a significant and distinguishable entity whose components may lack individual distinction; or that have yielded, or may be likely to yield, information important in prehistory or local, State, or national history.
   b. Exterior Form and Appearance
      In considering exterior form and appearance, the Historic Preservation Commission should consider the following elements and any others deemed necessary by the Historic Preservation Commission, to ensure that the Guidelines are consistent with the historic or visual character or characteristics of the district:
      i. Exterior features;
      ii. Height of the building or structure;
iii. Setback and placement on lot of the building or structure, including lot coverage and orientation;

iv. Exterior construction materials, including textures, patterns, and colors;

v. Architectural detailing, such as lintels, cornices, brick bond, foundation materials, and decorative wooden features;

vi. Roof shapes, forms, and materials;

vii. Proportions, shapes, positionings and locations, patterns, and sizes of any elements of fenestration;

viii. General form and proportions of buildings and structures;

ix. Appurtenant fixtures and other features such as lighting;

x. Structural condition and soundness;

xi. Use of local or regional architectural traditions; and

xii. Effect of trees and other landscape elements.

(Amended by Ord. 10-156 on 10/19/10)
30-4-12.2 Designation of Landmark Signs

The following procedure must be used to designate signs as Landmark Signs. No sign may be considered a Landmark Sign unless it has received that designation through this process.

A. Designation Procedure

1. An application for a Landmark Sign designation must be submitted to the Planning and Community Development Department in accordance with 30-4-1.3.

2. The Planning and Community Development Director must forward the application and all supporting material to the Historic Preservation Commission and place the application on the next available agenda.
3. The applications must be considered by the Historic Preservation Commission at a public hearing. The Commission must review the application and may designate the sign as a Landmark Sign, deny the designation, or request additional information in order to make a final decision.

4. If the sign is designated as a Landmark Sign, a copy of the application must be submitted to the Engineering and Inspections Department. After designation, the applicant has 60 days to bring any signs that pose a hazard into a structurally safe condition. Failure to assure that signs are safe and do not pose a hazard will result in loss of the Landmark Sign designation. The Engineering and Inspections Department must certify that the sign is found to be structurally safe. Landmark Signs must conform to all other provisions of this ordinance not in conflict with the privileges of the landmark designation and be kept in good repair.

B. Approval Criteria

To qualify as a Landmark Sign, the sign must meet both of the following criteria:

1. Be recognized as important to the culture or history of Greensboro, or possess unique characteristics, or incorporate materials or craftsmanship not commonly found in newer signs.

2. Bear a close resemblance to its appearance when it was installed.

30-4-12.3 Zoning Map Amendments in Historic District Overlays

Zoning map amendments for property within a historic district must follow the Zoning Map Amendment procedures of 30-4-5, except as follows:

A. The Planning and Community Development Department must refer such requests to the Historic Preservation Commission for review at the next regular meeting. The Historic Preservation Commission must make its recommendation to the Zoning Commission.

B. The Historic Preservation Commission must vote to recommend that the proposed zoning map amendment be approved or denied. The Historic Preservation Commission must base its decision on whether or not an amendment is congruous with the goal of preserving and maintaining the character of buildings, structures, features, sites, and setting found within the historic district overlay. The Historic Preservation Commission may not consider issues unrelated to the preservation of buildings, structures, features, sites, and setting found within the historic district overlay.
A. **Applicability**

1. A certificate of appropriateness is required for all activities specified in this section, regardless of whether a building permit is or is not required.

2. A certificate of appropriateness as to the treatment of exterior features is required for the construction, reconstruction, alteration, relocation, or demolition of the exterior portion of any building or other structure (including but not limited to masonry walls, fences, light fixtures, steps and pavement, or
other appurtenant features); any aboveground utility structure; or any type of outdoor advertising or other sign.

3. For the purposes of this section, “exterior features” includes the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material; the size and scale of the building; and the type and style of all windows, doors, light fixtures, signs, and location of all such signs. Such “exterior features” may include historic signs, color, and significant landscape, archaeological, and natural features of the area.

4. Within any local historic district overlay, the city and all public utilities, except as provided under 30-4-12.4(B), must obtain a certificate of appropriateness prior to initiating any changes in the character of street paving, street width, utility installations or removals, lighting, street trees, walls, fences, sidewalks, or exterior of buildings or structures on property or streets in which they have a fee or other interest.

5. The Historic Preservation Commission may authorize Planning and Community Development staff to review and approve minor work, provided that no application for a certificate of appropriateness may be denied without formal action by the Historic Preservation Commission. A listing of activities considered minor work is contained in the *Historic District Program Manual and Design Guidelines*.

B. **Activities Not Requiring Certificate of Appropriateness**
The following activities do not require a certificate of appropriateness:

1. The ordinary maintenance or repair of any exterior architectural feature in a historic district overlay which does not involve a change in design, material, or outer appearance.

2. The construction, reconstruction, alteration, restoration, moving, or demolition of any such feature if the Engineering and Inspections Director has certified in writing to the Historic Preservation Commission that such action is required to protect the public safety because of unsafe or dangerous conditions.

3. The ordinary maintenance, repair, or replacement of streets, sidewalks, pavement markings, utility service lines, street signs, traffic signs, street light fixtures, etc., and repair or replacement of such items in the event of equipment failure, accidental damage, or natural occurrences such as electrical storms, tornadoes, ice storms, and the like, as long as the work does not involve a change in design or materials.

4. Interior alterations to a structure; however building permits and other approvals may still be required.

C. **Authority to File**
Certificate of appropriateness applications may be made by the city or a public utility, a property owner or a designated agent.

D. **Filing**
1. Applications for a certificate of appropriateness must be submitted to the Planning and Community Development Department in accordance with the common review procedures of 30-4-1.

2. In order to be considered by the Historic Preservation Commission at its regular monthly meeting, a complete certificate of appropriateness application must be submitted to the appropriate Planning and Community Development staff in accordance with 30-4-1.3. The application must be accompanied by sketches, drawings, photographs, specifications, descriptions, and/or other information of sufficient detail to clearly show the proposed change.

E. **Notification**
1. Planning and Community Development staff will send mailed notice to the owners of surrounding property within 100 feet of the site of the certificate of appropriateness.

2. Notification must be provided in accordance with 30-4-1.4.
F. **HCD—Review and Recommendation/Decision**
   1. Planning and Community Development must review an application in consideration of the review criteria contained in 30-4-12.4(H).
   2. Applications for “minor work” may be approved by the Planning and Community Development Director.
   3. Any application for “major work” or any “minor work” applications recommended for denial shall be delivered to the Historic Preservation Commission with a recommendation by the Planning and Community Development for consideration at the next regularly scheduled meeting.

G. **Historic Preservation Commission—Final Action**
   1. The Historic Preservation Commission must consider applications for certificates of appropriateness at a public hearing at the next regularly scheduled meeting.
   2. The Historic Preservation Commission will have 60 days to act on an application for certificate of appropriateness. With the agreement of the applicant, the Historic Preservation Commission may continue an application. If the Historic Preservation Commission fails to act within that time period, the application shall be deemed approved.
   3. In reviewing an application for a certificate of appropriateness, the Historic Preservation Commission must refer to the Historic District Program Manual and Design Guidelines, the review criteria contained in 30-4-12.4(H), and the recommendation of Planning and Community Development Director.
   4. The Historic Preservation Commission may view the premises and seek the advice of the North Carolina Department of Cultural Resources or other expert advice.
   5. The Historic Preservation Commission may approve, approve with modifications or conditions, or deny an application for a certificate of appropriateness (except as limited in paragraph 7), below).
   6. When granting approval, the Historic Preservation Commission may prescribe such reasonable and appropriate conditions and safeguards to ensure that the recommendations of the **Historic District Program Manual and Design Guidelines** are met.
   7. An application for a certificate of appropriateness authorizing the demolition of a designated building or structure or the destruction of an object may not be denied. However, the effective date of a Certificate may be delayed for a period of up to 365 days from the date of approval. The maximum period of delay may be reduced by the Commission where it finds that the delay would cause the owner extreme hardship or deprivation of beneficial use of or return from the property. During the delay period the Historic Preservation Commission may negotiate with the owner and with any other parties in an effort to find a means of preserving the building, structure, or object.

H. **Review Criteria**
   In considering a certificate of appropriateness, the Historic Preservation Commission may deny applications for work that would be incongruous with the special character of the district.

I. **Dimensional Regulations and Exceptions**
   1. Structures within a historic district overlay must comply with the requirements of the underlying zoning district and this ordinance. Structures erected in a historic district overlay may use the contextual street setback of structures on the same side of the street in accordance with 30-7-3.4(F)1)
   2. All street setback (except as provided in subsection 1) above), interior setback, building coverage, and height requirements shall comply with applicable zoning regulations unless a special exception is approved by the Board of Adjustment in accordance with 30-4-13. The special exception may be approved only if the Historic Preservation Commission finds that granting such an exception meets the intent of the **Historic District Program Manual and Design Guidelines** and makes a recommendation for approval.
3. Where the Historic Preservation Commission finds that the number of off-street parking spaces and/or design standards for parking lots specified by this ordinance would render the site incompatible with the Historic District Design Guidelines, it may recommend to the Board of Adjustment that a special exception to the provisions of the off-street parking requirements and/or design standards be granted. The Board of Adjustment may approve a special exception authorizing modifications to off-street parking standards if it finds:
   a. that a lesser standard does not create problems due to increased on-street or other parking; and
   b. that a lesser standard does not create a threat to the public safety.

4. Unless otherwise authorized by the certificate of appropriateness, all off-street parking areas must be located to the rear of the principal building; however, parking in existing driveways and previously approved parking areas is exempt from this requirement.

J. Duration of Certificate of Appropriateness
   1. A Certificate of Appropriateness expires 12 months after the date of issuance if the work authorized by the Certificate has not commenced. If, after commencement, the work is discontinued for a period of 12 months, the Certificate immediately expires.
   2. A certificate of appropriateness authorizing demolition expires 12 months after the authorization date set by the Historic Preservation Commission if the work has not commenced. If, after commencement, the demolition work is discontinued for a period of 12 months, the Certificate immediately expires.
   3. Upon expiration of a certificate of appropriateness, no work authorized by the Certificate (including demolition) may be performed until a new Certificate of Appropriateness has been approved in accordance with this section.

K. Appeal
   Appeals of decisions by the Historic Preservation Commission may be taken to the Board of Adjustment in accordance with 30-4-1.6.

30-4-12.5 Prevention of Demolition by Neglect

A. Applicability
   1. Owners (or other persons having legal possession, custody, and control) of designated Guilford County Landmarks within the city limits or significant structures located within a local historic district overlay shall not allow the properties to decay or deteriorate as defined in 30-4-12.5(B). Upon written notice from the city, the owner must repair exterior features as indicated in the notice in accordance with the requirements of this section.
   2. Significant structures are designated in the historic report as shown on maps contained in the designation report for each historic district overlay.

B. Conditions of Neglect Defined
   The following is a listing of some of the conditions of neglect:
   1. deterioration of exterior walls, foundations, or other vertical support that causes leaning, sagging, splitting, listing, or buckling;
   2. deterioration of flooring or floor supports, roofs, or other horizontal members that causes leaning, sagging, splitting, listing, or buckling;
   3. deterioration of external chimneys that causes leaning, sagging, splitting, listing, or buckling;
   4. deterioration or crumbling of exterior plasters or mortars;
   5. ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors;
6. Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint, or weathering due to lack of paint, or weathering due to lack of paint or other protective covering;

7. Rotting, holes, and other forms of decay;

8. Deterioration of exterior stairs, porches, handrails, window and door frames, cornices, entablatures, wall facings, and architectural details that causes delamination, instability, loss of shape and form, or crumbling;

9. Deterioration of fences, gates, and accessory structures; and

10. Deterioration of any exterior feature so as to create or permit the creation of any hazardous or unsafe conditions to life, health, or other property.

C. Determination of Neglect

1. Petitions requesting a determination that a structure requires correction to prevent demolition by neglect can be filed with the Historic Preservation Commission in one of 3 ways:
   a. By the historic district neighborhood association;
   b. By written petition of 10 property owners in the historic district overlay; or
   c. By the Engineering and Inspections Director or other city official.

2. On receipt of a petition, the Planning and Community Development Director must notify the owner of the subject property of the complaint, investigate the situation, and prepare a report on the condition of the property.

3. If, upon investigation, the Planning and Community Development Director determines that the property may be in a condition of substantial neglect, the Planning and Community Development Director must notify the owner of this determination in writing. This notification must inform the owner that he may schedule a meeting with the Planning and Community Development Director to mediate an agreement to resolve the allegations of the petition, and that the owner may request that a claim of undue economic hardship be considered during the mediation (see 30-4-12.5(G)). This meeting must be held within 30 days of the date of notification letter.

4. If, during the mediation process, the owner enters into an agreement to resolve the allegations in the petition, the agreement constitutes a final order enforceable pursuant with this section.

5. If this mediation does not take place within 30 days of the date of the notification letter to the property owner, or does not result in an agreement, then the Planning and Community Development Director must place the item on the next available Historic Preservation Commission agenda and provide notice as required in 30-4-1.4.

6. If after notice and public hearing, no agreement has been reached to resolve the allegations of the petition, the Historic Preservation Commission may refer the petition to the Engineering and Inspections Director for the filing of a complaint according to the procedure as set forth in paragraph (D), below.

D. Action by the Engineering and Inspections Director

1. After receipt of a petition from the Historic Preservation Commission, the Engineering and Inspections Director must notify the owner in compliance with 30-4-12.5(F). The notice must offer the owner an opportunity to appear at a meeting with the Engineering and Inspections Director at least 30 days but no more than 45 days following receipt of the notification; and indicate that purpose of the hearing is to discuss the charge of neglect and to determine whether the owner and/or other parties in interest wishes to enter a claim of undue economic hardship.

2. The Engineering and Inspections Director must hold at least one meeting with the owner.
3. Following the meeting, the Engineering and Inspections Director must issue a written determination that the structure is undergoing demolition by neglect because it is deteriorating, or its condition is contributing to deterioration, according to the criteria of 30-4-12.5(B) supported by findings of fact regarding the allegation. The determination must be issued within 45 days of the original notification of the property owner. The determination may order repairs and establish a deadline for completion.

4. The Engineering and Inspections Director must deliver the written determination to the owner in compliance with 30-4-12.5(F).

5. In the event the owner wishes to petition for a claim of undue economic hardship, the Engineering and Inspections Director's order is stayed until after the Historic Preservation Commission determination in accordance with 30-4-12.5(G).

E. **Failure to Comply**
   If the owner of property fails to comply with an order to repair, the owner is subject to such remedies and penalties as may be provided for by state law and/or by the penalty and remedy provisions of 30-4-12.5(J).

F. **Notification of Property Owner**
   1. The Engineering and Inspections Director must notify the owner either personally or by registered or certified mail; but if the whereabouts of such persons are unknown and the same cannot be ascertained after the exercise of reasonable diligence, and the Engineering and Inspections Director shall make an affidavit to that effect, stating the steps taken to determine and locate the persons in interest. The notice must then be served by publishing the notice once each week for 2 successive weeks in a newspaper generally circulated within the city. Where published notice is provided, a notice of the pending proceedings must be posted in a conspicuous place on the premises thereby affected.

   2. The notification must contain the allegations and the process for making a decision regarding the petition, including any applicable deadlines.

G. **Safeguards from Undue Economic Hardship**
   1. **Action by Engineering and Inspections Director**
      When a claim of undue economic hardship is made, the Engineering and Inspections Director must notify the Historic Preservation Commission within 3 days following the hearing on the complaint.

   2. **Hearing Required**
      a. The Historic Preservation Commission must schedule a hearing on the claim at the next possible regular meeting.

      b. The Historic Preservation Commission may direct staff to furnish additional information as it believes relevant. The Historic Preservation Commission must also state which form of financial proof it deems relevant and necessary to a particular case.

   3. **Action by the Petitioner**
      a. The petitioner (person claiming undue hardship) must present the information provided under subsection 4), below to the Historic Preservation Commission. An owner and/or parties in interest may be required to furnish additional information that may be relevant to its determination of undue economic hardship.

      b. In the event that any of the required information is not reasonably available to the owner and/or parties in interest and cannot be obtained by the owner, the owner must describe the reasons why such information cannot be obtained.

      c. When a claim of undue economic hardship is made, the owner and/or parties in interest must provide evidence during the hearing upon the claim, describing the circumstances of hardship.
4. Minimum Evidence Required
   a. Nature of ownership (individual, business, or non-profit) or legal possession, custody, and control.
   b. Financial resources of the owner and/or parties in interest.
   c. Cost of repairs.
   d. Assessed value of the land and improvements.
   e. Real estate taxes for the previous 2 years.
   f. Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship between the owner and the person from whom the property was purchased, or other means of acquisition of title, such as by gift or inheritance.
   g. Annual debt service, if any, for the previous 2 years.
   h. Any listing of the property for sale or rent, price asked, and offers received, if any.
   i. Additional evidence required for income producing property:
      i. Annual gross income from the property for the previous 2 years.
      ii. Itemized operating and maintenance expenses for the previous 2 years, including proof that adequate and competent management procedures were followed.
      iii. Annual cash flow, if any, for the previous 2 years.

5. Final Action by the Historic Preservation Commission
   a. Within 60 days of the hearing on the claim, the Historic Preservation Commission must approve or deny a claim. Findings in support or opposition of the claim must be entered into the record.
   b. In the event of denial of a claim of undue economic hardship, the Historic Preservation Commission must notify the Engineering and Inspections Director, and the Director must issue an order requiring such property to be repaired within the time specified.

6. Relief Plan
   a. In the event of approval of a claim of undue economic hardship, the approval must be accompanied by a recommended plan to relieve the economic hardship. This plan may include, but is not limited to:
      i. property tax relief as may be allowed under North Carolina law;
      ii. loans or grants from the city, or other public, private, or nonprofit sources;
      iii. acquisition by purchase or eminent domain;
      iv. building code modifications;
      v. changes in applicable zoning regulations; or
      vi. relaxation of the provisions of this article sufficient to mitigate the undue economic hardship.
   b. The decision-making body must notify the Engineering and Inspections Director, and the Engineering and Inspections Director must issue an order requiring the property to be repaired within the time specified, and according to the provisions of the recommended plan.

H. Appeals
   Decisions made by the Engineering and Inspections Director or by Historic Preservation Commission may be appealed to the Board of Adjustment in accordance with the Appeal procedures of 30-4-27. Application
must be filed by an aggrieved party with the Board of Adjustment within 10 days following receipt of the order for repair of the property or determination.

I. **Other City Powers**
Nothing contained within this section limits the city’s power to declare an unsafe building or a violation of the minimum housing code.

J. **Penalties and Remedies**
Enforcement of this section may be by any one or more of the following methods, and the institution of any action under any of these methods does not relieve any party from any other civil or criminal proceeding prescribed for violations and prohibitions.

1. **Equitable Remedy**
The city may apply for any appropriate equitable remedy to enforce the provisions of this article.

2. **Civil Penalty**
Civil penalties may be levied in accordance with 30-5-5.4(C).

### 30-4-13 Variances

#### 30-4-13.1 General

A. The Board of Adjustment may vary certain requirements of this ordinance, in harmony with the general purpose of these regulations, where special conditions applicable to the property in question would make the strict enforcement of the regulations impractical or result in a hardship in making reasonable use of the property.

B. The Board of Adjustment, after review and recommendation from the Historic Preservation Commission, may grant variances for reconstruction, rehabilitation, or restoration of structures that are individually listed or are contributing structures within an historic district overlay.

C. The Board of Adjustment may grant variances relating to tree conservation provisions of 30-12-1.

D. No variance may be granted that would have the effect of allowing a use not permitted in the subject district or a density exceeding the maximum allowed in the subject district.

E. No variance may be granted where explicitly prohibited by this ordinance.

(Amended by Ord. 12-114 on 10/2/12)
30-4-13.2 Authority to File

An application for a variance must be signed by the owner of the subject property.

30-4-13.3 Filing

An application for a variance must be prepared in accordance with the common review procedures of 30-4-1 and submitted to the Planning and Community Development Department at least 30 days before the Board of Adjustment meeting where the application will be heard.

(Amended by Ord. 13-156 on 12/17/13)

30-4-13.4 Board of Adjustment—Decision

A. The Board of Adjustment must hold a public hearing on all variance applications. Notice of the hearing must be provided in accordance with 30-4-1.5.
B. Following the close of the public hearing, the Board of Adjustment must take action on the application in consideration of the General Variance Findings of Fact required by 30-4-13.5. The Board may grant approval of a variance application subject to certain conditions or restrictions in accordance with 30-4-13.7.

30-4-13.5 General Variance Findings of Fact

A. In order to grant a variance request, the Board must make the following findings of fact:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

3. The hardship did not result from actions taken by that applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. There are practical difficulties or unnecessary hardships that would result from carrying out the strict letter of this ordinance.

B. Any variance granted by the Board of Adjustment must be the minimum variance required for reasonable use of the land, building, or structure. The fact that property may be utilized for greater profit, however, is not considered adequate to justify the granting of a variance.

C. Neither the nonconforming use of lands, buildings, or structures in the same zoning district; nor the permitted use of lands, buildings, or structures in other zoning districts; nor personal circumstances may be considered as grounds for the issuance of a variance. Furthermore, mere financial hardship does not constitute grounds for the granting of a variance.

(Amended by Ord. 13-122 on 9/17/13)

30-4-13.6 Flood Damage Prevention Variance

A. Authority

The Board of Adjustment shall hear and decide appeals and requests for variances from the requirements of the flood damage prevention provisions of this ordinance.

B. Appeal and Variance Considerations

In passing upon such applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

1. The danger that materials may be swept onto other lands to the injury of others;

2. The danger to life and property due to flooding or erosion damage;

3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4. The importance of the services provided by the proposed facility to the community;

5. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
6. The compatibility of the proposed use with existing and anticipated development;
7. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
8. The safety of access to the property in times of flood for ordinary and emergency vehicles;
9. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters, and the effects of wave action, if applicable, expected at the site;
10. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges; and
11. The effect that granting the appeal or variance would have on the city’s eligibility for federal flood insurance. In addition, if the request is for a functionally dependent facility, the Board of Adjustment shall consider the necessity to the facility of a waterfront location.

C. Written Report and Additional Conditions
A written report addressing each of the above factors shall be submitted with the application for a variance.

D. Granting of Variances
1. Variances may be granted for:
   a. The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
   b. Functionally dependent facilities provided such facilities are protected by methods that minimize flood damages.
   c. Any other type of development provided it meets the requirements stated in this section.
2. Variances shall not be granted when the variance will cause the structure to be in violation of other federal, state, or local laws, regulations, or ordinances.
3. Variances shall not be granted within any designated floodway or non-encroachment area if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued prior to development permit approval.
6. Variances shall only be granted upon:
   a. A showing of good and sufficient cause;
   b. A determination that failure to grant the variance would result in exceptional hardship; and
   c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, creation of a nuisance, fraud on or victimization of the public, or conflict with existing local laws or ordinances.
7. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation –up to $25 per $100 of insurance coverage. Such notification shall be maintained with a record of all variance actions.
8. The Floodplain Administrator, hereinafter referred to as the Water Resources Director, shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

9. A variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in special flood hazard areas or future conditions flood hazard areas provided that all of the following conditions are met:
   a. The use serves a critical need in the community.
   b. No feasible location exists for the use outside the special flood hazard area or future conditions flood hazard area.
   c. The reference level of any structure is elevated or flood-proofed to at least the regulatory flood protection elevation.
   d. The use complies with all other applicable federal, state and local laws.
   e. The city has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least 30 days prior to granting the variance.

30-4-13.7 Conditions

In granting a variance, the Board of Adjustment may impose conditions deemed necessary to advance the purposes and intent of this ordinance, provided that such conditions are directly related to the impacts of the proposed use and are roughly proportional to those anticipated impacts.

A. A variance granted subject to a condition may continue only so long as there is compliance with the condition.

B. Violation or invalidation of conditions required for approval, for any reason, will be deemed a violation of this ordinance.

C. In the event that any such condition is held invalid, for any reason, such holding has the effect of invalidating the variance granted and renders the variance null and void.

D. If a violation or invalidation of a condition of a variance occurs, the Engineering and Inspections Director may revoke the Certificate of Occupancy.

30-4-13.8 Duration of Approval

The Board may specify a time duration within which construction, operation, or installation must commence. Unless otherwise specified, construction, operation, or installation must start within 12 months of the date of issuance of a variance or it becomes void. If construction or operation is started within the specified time period, the variance approval continues in force so long as the affected building, operation, or installation remains.

30-4-13.9 Appeal

Board of Adjustment final decisions may be appealed within 30 days to the Guilford County Superior Court who must hear the appeal on the record.
30-4-14 Special Exceptions

30-4-14.1 General

A special exception may be granted by the Board of Adjustment in accordance with the procedure established in this section. Only those special exceptions that are expressly authorized under the provisions of this ordinance may be approved by the Board of Adjustment.

30-4-14.2 Authority to File

An application for special exception must be signed by the owner of the subject property.
30-4-14.3 Filing

An application for a special exception must be prepared in accordance with the common review procedures of 30-4-1 and submitted to the Planning and Community Development Department at least 24 days before the Board of Adjustment meeting where the application will be heard.

30-4-14.4 Review and Decision–Board of Adjustment

A. The Board of Adjustment must hold a public hearing on all special exception applications. Notice of the hearing must be provided in accordance with 30-4-1.5.

B. The Planning and Community Development Director must present the special exception application to the Board of Adjustment at the first regularly scheduled meeting following proper filing and notice of the application.

C. Review and recommendation by the Historic Preservation Commission is required for application requests relating to properties located within local historic district overlays.

D. A special exception may be granted by the Board if evidence presented by the applicant persuades it to reach each of the following conclusions:

1. The special exception is in harmony with the general purpose and intent of this ordinance and preserves its spirit; and
2. The granting of the special exception assures the public safety and welfare and does substantial justice.

30-4-14.5 Conditions

The Board of Adjustment may attach conditions to approval of a special exception with respect to location, design, construction, equipment, maintenance, duration of authorization, or operation as it may deem advisable. If such conditions and safeguards are accepted by the applicant, the Board of Adjustment must grant the special exception; otherwise the special exception must be denied.

30-4-14.6 Specific Requirements

Where specific requirements or conditions are listed in this ordinance as a prerequisite to granting a special exception, the Board of Adjustment may not grant a variance of those requirements or conditions.

30-4-14.7 Duration of Approval

The Board of Adjustment may specify a time duration within which construction, operation, or installation must commence. Unless otherwise specified, construction, operation, or installation must start within 12 months of the date of issuance of a special exception or it becomes void.
30-4-15 Plot Plans and Site Plans

30-4-15.1 Types of Plans

A. Plot Plans
   If a site plan is not otherwise required, the following development activities require submittal of a plot plan prepared in accordance with the approved Plot Plan Standards as published and amended by the Planning and Community Development Department:
   
   1. construction of or additions to single-family and two-family dwellings, and accessory buildings;
   2. expansions of buildings, parking areas, or open areas of land where the amount of the expansion area does not exceed 3,000 square feet;
3. co-location on an existing wireless telecommunications facility that meets the Wireless Telecommunications Facilities standards 30-8-10.2(K);
4. installation of modular classrooms;
5. installation of temporary sales offices;
6. changes in use that do not result in an increase of 2 or more in the land use classification number; and
7. paving a lawfully created, existing gravel parking lot that has 10 or fewer spaces.

B. **Site Plans**
   For all other site developments a Site Plan prepared in accordance with the design review application as published and amended by the Planning and Community Development Department must be submitted.

### 30-4-15.2 Approval Required

A. No site plan or plot plan will be approved prior to approval of the underlying zoning district.

B. No permanent improvements may be installed and no building permit will be issued for any development activity until a site plan or plot plan is approved.

### 30-4-15.3 Decision-making Authority

A. The Technical Review Committee has final decision-making authority for:
   1. all developments within a designated Water Supply Watershed;
   2. all developments or additions to existing developments containing 9 or more dwelling units in a single building;
   3. all developments or additions of 15,000 square feet of gross floor area or more; or
   4. any use of land or expansion of a use of land involving more than 40,000 square feet of gross land area, regardless of whether or not buildings are located on the site.

B. The Planning and Community Development Director has final decision-making authority for all other plans, except Unified Development Plans.

C. The Planning Board has final decision-making authority for all Unified Development Plans.

### 30-4-15.4 Coordination with Other Procedures

A. **General**
   Site plan review may proceed concurrently with a building plan review, an application for a certificate of appropriateness, or may follow submittal of an application for a grading permit, or other applications for approvals required for the particular development; except as providing in 30-4-26. When a watershed development plan approval, stormwater management plan, approval in accordance with the **Airport Overlay district** is required or development plans requiring review by the Development Review Team, that approval must be obtained prior to or concurrent with site plan approval.

B. **With Special Use Permit**
   1. **Compliance with Approved Permit**
      All other permits issued for any development activity on a property subject to a special use permit (see 30-4-10) must comply with the approved special use permit.
   2. **Submission of Site Plans**
      Site plans for any development made pursuant to any special use permit are submitted for review in the same manner as other site plans required by this ordinance.
C. **With Planned Unit Development**
Unified Development Plans may not be filed until the Concept Plan and the zoning map amendment have been approved in accordance with the Zoning Map Amendment procedures of 30-4-6. The Unified Development Plan and all subsequent preliminary plats and site plans pursuant to it constitute Conditional District Site Plans required pursuant to 30-4-5.11.

D. **Sketch Plan**
1. A sketch plan is a plan prepared in advance of formal submittal for purposes of receiving informal staff comments. Although there are no minimum requirements for the content of a sketch plan, applicants are encouraged to provide as much detail as possible. Staff will distribute such sketch plans received and convey comments to the applicant in a timely manner.
2. A sketch plan is required for subdivisions of 50 lots or more and encouraged for all other development.

### 30-4-15.5 Site Plan Filing

A. A site plan must be prepared in accordance with design review application as published and amended by the Planning and Community Development Department and submitted to the Planning and Community Development Department in accordance with 30-4-1.3.

B. For plans requiring Technical Review Committee review and/or approval (see 30-4-15.2(B) that meet the requirements of this ordinance, the plan will be placed on the agenda for the next scheduled Technical Review Committee meeting.

C. For plans requiring Transportation Impact Study see 30-4-5.4.

### 30-4-15.6 Review and Approval

A. **Site Plans and Plot Plans**
1. Site plans and plot plans satisfying the review criteria in 30-4-15.7 must be approved, and the applicant may proceed with other requirements necessary to obtain a building permit.
2. If the plan is granted conditional approval, the applicant has 30 days to revise and resubmit the plan to the Planning and Community Development Department. If all of the conditions for approval have been met and the plan is otherwise unchanged, the Planning and Community Development Department must approve the plan. If the plan is not revised within 30 days to meet the approval conditions, or the applicant notifies the Planning and Community Development Department that no more revisions to the site plan will be made, the plan must be deemed denied.

B. **Stormwater Management Plans and Watershed Development Plans**
1. **Plan Required**
   A stormwater management plan and separate maintenance plan in accordance with the requirements of this section must be submitted to the Planning and Community Development Director and must include all applicable information listed in the Stormwater Management Manual and the Storm Drainage Design Manual. The stormwater management plan may be combined with any required watershed development plan.
2. **Plan Approval**
   The Technical Review Committee is authorized to approve the stormwater management plan if it is in conformance with the requirements of this ordinance. Timing of approval must be as follows:
   a. **Site Plans**
      The stormwater management plan and separate maintenance plan must have approval prior to or concurrent with site plan approval.
   b. **Preliminary Subdivision Plats**
The stormwater management plan must have approval prior to or concurrent with preliminary subdivision plat approval except that when a stormwater management improvement is proposed, the construction plan details including proposed grading, dimensions, calculations, etc. for the proposed improvement and the separate maintenance plan may be approved following preliminary subdivision plat approval. The construction plan details and separate maintenance plan must be approved prior to issuance of any permits as specified in this section.

Commentary: For the NPDES Phase II Rule Changes (Water Quantity), Stormwater Management Plans (SWMP) submitted prior to June 1, 2009 that received final Technical Review Committee (TRC) approval before December 31, 2009 retain exemption eligibility. Since the development shown on the plan is preliminary and not for construction purposes, prior to any development the applicant shall submit a site plan for TRC review and approval. With the legislative extension of plan approvals the City recognizes that applicants must submit a detailed site plan for TRC review and secure TRC approval prior to December 31, 2013, in order to maintain the “grandfathering” depicted on those SWMP’s.

3. **Approved Plan a Prerequisite**
   The Planning and Community Development Director is not authorized to issue any permits, except as provided in 30-4-26.1(F)1) (Permits Issued Prior to Site Plan or Preliminary Plat Approval) for development on any land unless and until a stormwater management plan, that is in compliance with the requirements of this section, has been approved.

4. **Plan Certification Requirement for Structural Stormwater Management Improvements**
   Where a structural stormwater management improvement is required for a development to meet the requirements of this article, a North Carolina licensed professional engineer must sign and seal a certification on the plan that the plan meets all stormwater management requirements of this section.

   a. **Quality Control Certification**
      The engineer’s certification of stormwater quality control is required on the stormwater control construction plans portion of the watershed development plan when a permanent stormwater quality control is proposed. The certification must be in the following form:

      ![Engineer's Certification of Stormwater Quality Control]

      ENGINEER’S CERTIFICATION OF
      STORMWATER QUALITY CONTROL

      I certify that, pursuant to generally accepted engineering standards in the community, it is my professional opinion that runoff from the first inch of rainfall from areas that are required to be controlled per 30-12-3.12 of the Greensboro Land Development Ordinance is controlled by a permanent engineered stormwater quality control that has been designed to meet or exceed the requirements in the Greensboro Stormwater Management Manual.

      P.E. SEAL ___________________________ DATE _____________

      SIGNATURE ______________________

   b. **Quantity Control Certifications**
      An engineer’s certification of quantity control is required before approval of the Stormwater Management Plan. In addition, an engineer’s certification of quantity control completion is required before final approval of the Engineered Stormwater Control by the Water Resources Director.

5. **Quantity Control Certification**
   An engineer’s certification of quantity control is required before the approval of the Stormwater Management Plan by the Water Resources Director. The engineer’s certification of must be in the following form:

      ![Engineer's Certification of Quantity Control]
ENGINEER'S CERTIFICATION OF
STORMWATER QUANTITY CONTROL

Pursuant to generally accepted engineering standards, I certify that the following statement or statements are accurate with respect to the preliminary plan/site plan ____ (name of plan) ____: [Please check all that apply.]

_____ The development shown on this plan is consistent with the provisions contained on the preliminary plan/site plan ____ (name of plan) ____, which was approved prior to July 1, 1999, and which approval has not lapsed, and therefore is exempt from compliance with the stormwater management requirements of 30-12-7.

_____ The net increase in built-upon area is less than 400 square feet; therefore, this development is exempt from 30-1-1.1(B)7)b) of the Greensboro Land Development Ordinance.

_____ The stormwater management study included with this plan indicates that, to the best of my knowledge, belief, and information there will be no downstream flooding, drainage, or erosion problems as a result of the proposed development between the point where the runoff discharges from the property to where the site development area represents less than 10% of the total drainage area. Therefore, no quantity control improvement is proposed.

_____ The stormwater management study included with this plan indicates that, to the best of my knowledge, belief, and information there will be downstream flooding, drainage, or erosion problems associated with the development. The proposed stormwater management improvements(s) indicated on this plan is or will be designed to minimize increased flooding, drainage, and erosion problems from occurring between the point where the runoff discharges from the property to where the site development area represents less than 10% of the total drainage area.

_____ The stormwater control structure or structures shown on this plan are or will be designed to reduce the peak flow rates in the post-development, 2-year, 24-hour storm event and the 10-year, 24-hour storm event to pre-development peak flow rates.

_____ The 10% point is located upstream of the site outlet; therefore no additional quantity control is required.

P.E. SEAL __________
SIGNATURE __________
DATE __________

6. Stormwater Control Completion Certificate

The engineer's certification, required in accordance with 30-12-3.7(B) of upon completion of permanent stormwater control structures, shall be of the following form:

ENGINEER'S CERTIFICATION OF
STORMWATER QUANTITY CONTROL COMPLETION

I certify that, pursuant to generally accepted engineering standards in the community, it is my professional opinion that the stormwater control(s) labeled as __________ on this plat (or on name of plat) as recorded in PB , PG in the Office of the Guilford County Register of Deeds has been completed in conformance with the plans and specifications approved on (approval date), has its full design volume available, and is functioning as designed.

P.E. SEAL __________
SIGNATURE __________
DATE __________

(Amended by Ord. 10-161 on 12/1/10)

30-4-15.7 Review Criteria

Site plans that meet the following criteria must be approved:

A. It is in compliance with all applicable ordinance requirements and other related City policies;

B. It is in compliance with all previously approved applicable plans; and

C. It takes into account topography and other significant natural features.

30-4-15.8 Duration of Plan Approval

If construction or development activity does not begin within 2 years following Plan approval, or is begun and then discontinued for a period greater than 180 days, approval expires and a new application must be submitted in accordance with the this section.
30-4-15.9 Revisions to Approved Plans

A. Limited revisions to the approved Plan, such as those resulting from field conditions or which result in an equal or better performance may be approved by the Planning and Community Development Director.

B. Substantial changes to the approved Plan, as determined by the Planning Director in accordance with the criteria of 30-4-5.10(A), must be resubmitted for approval. A plan resubmitted for approval is processed as if it was a new application.

30-4-15.10 Appeal

A. If a plot plan has been denied or granted conditional approval, the applicant may appeal to the Technical Review Committee in accordance with 30-4-1.6.

B. If a site plan has been denied or granted conditional approval, the applicant may appeal to the Planning Board in accordance with 30-4-1.6.

30-4-15.11 Landscape Plan

A landscape plan must be prepared in accordance with the requirements of this ordinance and with the Landscaping and Tree Conservation Manual and approved before installation of plant material.

30-4-15.12 Certification of Plant Material Installation

A. **Certificate of Occupancy**
   All required plant material must be installed and approved prior to the issuance of a Certificate of Occupancy by the Engineering and Inspections Director.

B. **Temporary Certificate of Occupancy**
   1. The Engineering and Inspections Director may issue a Temporary Certificate of Occupancy for a period of up to 90 days if, at the time of a request for a Certificate of Occupancy, the required planting areas are not complete and it can be determined that:
      a. plant materials are temporarily unavailable but will be available within 90 days, or
      b. completion of the planting areas would jeopardize the health of the plant materials, or
      c. weather conditions are not conducive to planting.,
   2. In order to receive a Temporary Certificate of Occupancy, the landowner must submit a copy of a signed contract for installation of the required planting areas and must post a surety equal to the amount of the contract.

C. The Engineering and Inspections Director may not issue a final Certificate of Occupancy until the planting areas have been completed and approved.

30-4-16 Construction and Utility Plans

30-4-16.1 Plan Required

A construction and utility plan for all street, water, sanitary sewer, and storm sewer facilities must be submitted to the city following preliminary plat review but may not be reviewed until the street and utility network on the preliminary plat has been found generally satisfactory by the Technical Review Committee. For each subdivision section, the construction and utility plans must include all improvements lying within or
adjacent to that section, as well as all water, sanitary sewer, and storm sewer lines lying outside that section and being required to serve that section. No construction and utility plan may be approved until the preliminary plat has been approved.

**30-4-16.2 Decision-making Authority**

The Engineering and Inspections Director has final decision-making authority for all construction and utility plans.

**30-4-16.3 Coordination with Other Plans**

Where public or private street, sidewalk, water, private drives or sanitary sewer is shown on a preliminary subdivision plat, the street and utility construction plans must be submitted following approval of the plat.

**30-4-16.4 Subdivision, Including Group Development**

Where public or private street, sidewalk, water, sanitary sewer, or stormwater facility construction is shown on a subdivision preliminary plat, the construction and utility plans must be submitted following approval of the preliminary plat.

**30-4-16.5 No Construction without Plan Approval**

None of the improvements listed above may be constructed until the construction and utility plans for such improvements have been reviewed and approved.

**30-4-16.6 Duration of Plan Approval**

If construction or development activity does not begin within 2 years following plan approval, or is begun and then discontinued for a period greater than 180 days, approval expires and a new application must be submitted in accordance with the this section.

**30-4-16.7 Inspections**

Work performed pursuant to approved construction and utility plans must be inspected and approved, and any required easements recorded, prior to issuance of a final certificate of occupancy.

**30-4-16.8 Utility Easements**

Easements over public utility lines needed to serve the site, which are located on-site or off-site, shall be provided in accordance with the specifications of 30-13-4.4.

(Amended by Ord. 10-156 on 10/19/10)

**30-4-17 Subdivision**

**30-4-17.1 Applicability**

Except as expressly exempted in 30-4-17.2, subdivision approval is required, in accordance with the procedures of this section, for all divisions of a tract or parcel of land into 2 or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and includes all divisions of land involving the dedication of a new street or a change in existing streets.
30-4-17.2 Actions Exempt from Subdivision Requirements

A. The following are not included within the definition of “subdivision” and are exempt from the subdivision procedures of this section:
   1. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and resultant lots are equal to or exceed the standards of this ordinance;
   2. The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved,
   3. The public acquisition by purchase of strips of land for the widening or opening of streets, or for public transportation system corridors;
   4. The division of a tract in single ownership into no more than 3 lots where the entire area is no greater than 2 acres, where no street right-of-way dedication is involved, and where the resultant lots are equal to or exceed the standards of this ordinance.
   
   **Commentary:** For subdivision activity in Watershed Critical Areas and General Watershed Areas, see 30-12-4 and 30-12-5.

B. No approval is required for exempt land divisions; however, Planning and Community Development Director certification of exempt status is required. Exempt plats, if prepared, must be certified noting their exemption and signed by the Planning and Community Development Director so that they can be recorded by the Office of the Register of Deeds. Exempt subdivision status does not constitute an exemption from the Water Supply Watershed Overlay district requirements.

30-4-17.3 Subdivision Types

There are two types of subdivisions: major and minor. (See definitions)

30-4-17.4 Sketch Plan

A. A sketch plan is a plan prepared in advance of formal submittal for purposes of receiving informal staff comments. Although there are no minimum requirements for the content of a sketch plan, applicants are encouraged to provide as much detail as possible. Staff will distribute such plans and return comments in a timely manner.

B. A sketch plan submittal is required for subdivisions of 50 lots or more and encouraged for all other subdivisions.

30-4-17.5 Preliminary Plat

A. **Applicability**
   A Preliminary Plat is required for all subdivisions.

B. **Filing**
1. The Preliminary Plat must be prepared by a registered land surveyor, registered landscape architect, or licensed engineer. Plans must be prepared in accordance with design review application published and amended by the Planning and Community Development Department and submitted in accordance with 30-4-1.3.

2. If the development requires a Transportation Impact Study, a preapplication meeting with the Transportation Director is required in accordance with 30-4-1.1.

3. A Transportation Impact Study, if required, must be submitted to the Transportation Department, in accordance with 30-4-5.4, a minimum of 21 days prior to Preliminary Plat submittal.

C. Planning and Community Development Director—Decision

1. The Planning and Community Development Director may approve Minor Subdivision Preliminary Plats. The Department must review the plat for conformance with the requirements of this ordinance and may consult with other agencies or officials by referral.

2. The Planning and Community Development Director must approve, approve with conditions, or deny the Preliminary Plat within 10 days of receipt of a complete Preliminary Plat application.

3. Plats approved by the Planning and Community Development Director may proceed toward Final Plat approval.

4. Plats denied or granted conditional approval by the Planning and Community Development Director may be appealed to the Technical Review Committee in accordance with 30-4-1.6.

D. Technical Review Committee—Decision

1. The Planning and Community Development Director must present reviewed and completed Preliminary Plats and appealed plats to the Technical Review Committee at its next regularly scheduled meeting.

2. The Technical Review Committee shall review Major Subdivision Preliminary Plats or appealed plats for compliance with regulations and may consult with other agencies or officials by referral.

3. If external street connections and public input are involved in accordance with the connectivity policy of 30-13-2.5, the plat review may not be completed until such requirements are met.

4. The Technical Review Committee must approve, approve with conditions, or deny the plat.
5. If the plat is granted conditional approval, the applicant has 30 days to revise and resubmit the plat to the Planning and Community Development Department. If all of the conditions for approval have been met and the plat is otherwise unchanged, the Planning and Community Development Director must approve the plat. If the plat is not revised within 30 days to meet the approval conditions, or the applicant notifies the Planning and Community Development Department that no more revisions to the plat will be made, the plat is deemed denied.

6. Preliminary Plats approved by the Technical Review Committee may proceed toward Final Plat approval.

7. Plats denied by the Technical Review Committee may be appealed to the Planning Board in accordance with 30-4-1.6.

E. Planning Board—Appeal
The Planning Board must consider the appeal at the next regularly scheduled meeting. The Board has until the next available scheduled meeting following the initial appeal hearing to act on an appeal.

F. Revisions to a Preliminary Plat
1. Limited revisions to approved Preliminary Plats may be approved by the Planning and Community Development Director.

2. Substantial changes to an approved Preliminary Plat, as determined by the Planning and Community Development Director in accordance with the criteria of 30-4-5.10(A), must be resubmitted for review and approval as a new submittal.

G. Duration of Approval
Preliminary plat approval remains valid for 2 years and may be extended in accordance with the provisions of 30-4-17.6(H).

30-4-17.6 Final Plat

A. Applicability
1. A Final Plat is required for all subdivisions except for Group Developments not requiring easement dedication, street right-of-way dedication, or permanent engineered stormwater controls.
2. Upon approval of the Preliminary Plat and other required plans, the applicant is eligible to submit a Final Plat for approval.

B. **Filing**
The final plat must be prepared by a registered land surveyor in accordance with the design review application published and amended by the Planning and Community Development Department and submitted in accordance with 30-4-1.3.

C. **Conformance with Preliminary Plat**
The final plat must conform to the approved preliminary plat and may cover only that portion of the preliminary plat proposed for recordation, together with all improvements, rights-of-way, and easements needed to support the lots shown.

D. **Required Improvements**
A final plat may not be approved until all required improvements, including stormwater controls, have been installed and accepted by the city or a performance guarantee has been provided in accordance with 30-4-20.

E. **Planned Unit Development**
No final plat for a phase of a planned unit development may be approved unless:
1. All open space and common facilities included in previous phases have been conveyed and/or completed; and
2. There is no violation of the concept plan or conditional zoning site plan in any previous phase.

F. **Planning and Community Development Director—Decision**
1. The Planning and Community Development Director must review the final plat for conformance with the approved preliminary plat and all other requirements, including 30-4-17.6(D).
2. The Planning and Community Development Director may approve or deny the final plat.
3. Approved final plats must have a signed approval certification entered on the face of the plat in a form that is satisfactory to the Planning and Community Development Director,
4. Plats denied by the Planning and Community Development Director may be appealed to the Technical Review Committee in accordance with 30-4-1.6.

G. **Owners’ Association**
When a development contains common elements, no final plat may be recorded until owners’ association documents prepared in accordance with 30-13-9 are recorded in the County Office of the Register of Deeds.

H. **Recordation and Duration of Final Plats**
1. After approval by the Planning and Community Development Director, a final plat will be recorded in the Office of the County Register of Deeds by the city.
2. The preliminary plat becomes void and must be resubmitted to the Technical Review Committee if a final plat is not recorded within 2 years after preliminary plat approval or if there is a lapse of more than 2 years between the recordings of phases or sections.

I. **Permits**
Unless otherwise expressly stated, the subdivider may obtain building and other permits required by this ordinance upon recordation of the Final Plat.

J. **No Permits on Lots Illegally Subdivided**
No building or sign permit will be issued on a lot created in violation of applicable subdivision regulations.
30-4-17.7 Coordination with Other Procedures

To reduce the time required to attain all necessary approvals and to facilitate the processing of applications, an applicant may elect, at their own risk, to start the subdivision approval process simultaneously with applications for grading permits or other applications for approvals required for a particular project. When a watershed development plan approval is required, all portions of that plan except stormwater control construction plans must be approved prior to Preliminary Plat approval.

30-4-17.8 Dedication of Right-of-Way and Open Space

A. Rights-of-Way and Easements

1. The approval and recordation of a plat constitutes an offer of dedication to the city of the right-of-way of each public street, alley, utility easement, sight distance easement, sidewalk easement, joint/cross-access easement and drainage easement shown on such plat.

2. The approval and recordation of a plat does not constitute acceptance of maintenance responsibility within any right-of-way or easement. Improvements within rights-of-way or easements, such as utility lines, street paving, drainage facilities, or sidewalks, may be accepted for maintenance by the City Council or by the administrative officer authorized to inspect and, where appropriate, accept the dedication of such improvements.

B. Drainageway and Open Space

Land designated as public open space on a Final Plat can either be conveyed in fee simple or dedicated as an easement to the city in accordance with the following standards:

1. Fee Simple

   a. This is the conveyance of fee simple marketable title (unencumbered financially and environmentally) to the drainageway and open space to the City of Greensboro.

   b. The offer of fee simple marketable title to the drainageway and open space must be accepted by the City Council and then recorded with the Register of Deeds.

2. Open Space Easement

   a. This is the conveyance of fee simple marketable title to the drainageway and open space to an owners’ association with a dedicated easement to the city.

   b. The offer of fee simple marketable title to the drainageway and open space must be accepted by the owners’ association and then recorded with the Register of Deeds.

3. The approval and recordation of a plat constitutes dedication to the city and the public of the drainageway and open space shown on such plat. The approval and recordation of a plat does not constitute acceptance of maintenance responsibility within such dedication. Public utilities and storm drainage facilities may be accepted for maintenance by the City Council or by the administrative officer authorized to inspect and, where appropriate, accept the dedication of such improvements.

4. Until such dedication has been accepted by the city, lands so offered may be used for open space purposes by the owner or by the owners’ association. Lands so offered for dedication must not be used for any purpose inconsistent with the proposed public use except as may be limited by state or federal regulations.

(Amended by Ord. 10-156 on 10/19/10)
30-4-18 Improvements Required

30-4-18.1 Original subdividers or developers and all subsequent subdividers and developers are responsible for the construction, installation, and maintenance of the following improvements in accordance with the standards in this ordinance:

1. all streets within the subdivision and improvements to existing streets required for safe and adequate access to the subdivision as may be required by this ordinance;
2. traffic control devices;
3. water, sewer and easements;
4. drainage facilities and easements;
5. engineered stormwater controls and easements (See 30-13-5);
6. erosion and sedimentation control devices; and
7. any other on- or off-site improvements required by this article or required at the time of preliminary plat approval.

30-4-18.2 If the subdivider files a final plat for only a portion of the subdivision for which a preliminary plat was approved, the improvements required to be constructed, installed, and maintained, and easements provided, in accordance with that record plat must be those improvements that the Engineering and Inspections Director deems necessary to serve the lots shown on the final plat.

(Amended by Ord. 10-161 on 12/1/10)

30-4-19 Completion of Improvements

A final plat may not be approved until:

30-4-19.1 all required improvements have been completed and installed; or
30-4-19.2 a performance guarantee has been provided in accordance with 30-4-20 and all departmental policies and procedures regarding performance guarantees have been met.

30-4-20 Performance Guarantees

30-4-20.1 Agreement and Guarantee

In lieu of requiring the completion, installation, and dedication of all required improvements prior to final plat approval or issuance of the Certificate of Occupancy, the city may enter into an agreement with the developer whereby the developer agrees to complete all required improvements within a specified period of time. Once the agreement is signed by the developer and the required financial guarantee is provided, the final plat may be approved or the Certificate of Occupancy may be issued if all other requirements of this ordinance are met.

To secure this agreement, the developer must provide one or more of the following financial guarantees to cover the costs of the uncompleted improvements:

A. Cash, Irrevocable Letter of Credit, or Equivalent Security

1. The developer must deposit cash, an irrevocable letter of credit, or other instrument readily convertible into cash at face value either with the city or in escrow with a financial institution. The amount of deposit must be adequate to cover at least the entire probable cost of installing all uncompleted improvements, as approved by the city.
2. If cash or other instrument is deposited in escrow with a financial institution, an agreement between the financial institution and the developer must be filed with the city guaranteeing the following:
   a. that the escrow account will be held in trust until released by the city and may not be used or pledged by the developer for any other matter during the term of the escrow; and
   b. that in case of a failure on the part of the developer to complete required improvements covered by the guarantee, the financial institution must, upon notification by the city, immediately pay the funds deemed necessary by the city to complete the improvements up to the full balance of the escrow account, or deliver to the city any other instruments fully endorsed or otherwise made payable in full to the city.

B. **Surety Bond**

1. The developer must obtain a surety bond from a surety bonding company authorized to issue surety bonds in North Carolina.

2. The bond must be payable to the city and must be in an amount covering the entire probable cost of installing all uncompleted improvements, as approved by the city.

### 30-4-20.2 Duration of Performance Guarantees

The duration of a performance guarantee must be of a reasonable period to allow for completion and acceptance of improvements. In no case may the duration of the performance guarantee exceed 2 years, unless the guarantee is extended with the consent of the city. The city may release a portion or all of any financial guarantee posted as the improvements are completed and approved by the city. All infrastructure necessary to serve off-site development must be completed before final release of the financial guarantee.

### 30-4-20.3 Default

A. **Public Improvements**

Developments with public improvements that are not completed and accepted at least 30 days before the expiration of the performance guarantee will be considered to be in default. Upon default the surety bonding company or the financial institution holding the escrow account must, if requested by the city, pay to the city all or any portion of the bond or escrow fund in an amount deemed necessary by the city to complete the improvements. Upon payment, the city must expend the funds, or portion of the funds, to complete all or any portion of the required improvements. The city must return any funds not spent in completing the improvements. Default on a project does not release the developer from liability and responsibility for completion of the required improvements.

B. **Private Improvements (engineered stormwater controls or other improvements to remain privately owned)**

Developments with private improvements that are not completed and accepted at least 30 days before the expiration of the performance guarantee will be considered to be in default. Upon default the surety bonding company or the financial institution holding the escrow account must, if requested by the city, pay to the city all or any portion of the bond or escrow fund in an amount deemed necessary by the city to have the improvements completed. Upon payment, the city shall require completion of all required improvements and shall use such funds or portion thereof from the bond or escrow account to reimburse costs for all or any portion of the required improvements the city must return any funds not spent in completing the improvements. Default on a project does not release the original subdivider or developer and all subsequent subdividers and developers from liability and responsibility for completion of the required improvements.
30-4-20.4 Improper Release of Financial Guarantee

If the city releases a financial guarantee through error, that error does not release the developer from responsibility for the completion of all improvements required by this ordinance.

30-4-20.5 Fee in Lieu of Required Sidewalk Installation

Where the installation of sidewalk is required by an ordinance of the city, and the Transportation Director determines that installation at the time of development would conflict with a city, state, or federal roadway project planned or programmed to begin construction within 4 years, the developer must submit a fee in lieu of such installation. Fees submitted in lieu of required sidewalk installation must be in an amount of the entire estimated cost of concrete and concrete installation for sidewalks and wheelchair ramps, based on current prices as determined by the Transportation Director. All fees collected by the city pursuant to this subsection must be deposited in a city fund to be used for construction of sidewalks on the site, or in the street right-of-way abutting the site, for which the fee is collected. Use of submitted funds to construct sidewalks must be coordinated with the appropriate phase of the conflicting roadway project.

(Amended by Ord. 10-161 on 12/1/10)

30-4-21 Oversizing and Extension of Improvements

The city is authorized to require installation of oversized utilities and the extension of utilities to adjacent property when the city deems the oversizing and/or extension to be in the interest of future development. If the installation of oversized improvements is required, the city must reimburse the developer for the oversizing at rates set by the city according to the terms of an executed utility participation agreement.

30-4-22 Street, Alley and Walkway Closings

All street, alley and walkway closings must be processed in accordance with Section 6.61 of the City Charter.

(Amended by Ord. 12-26 on 4/3/12)

30-4-23 Street Name Changes

Street name changes must be processed in accordance with the Street Naming and Addressing Manual.

30-4-24 Withdrawal of Dedications

Any unopened, dedicated right-of-way in existence for 15 years or more may be eligible for withdrawal of dedication, as authorized in Section 136-96 of the NCGS, as an alternate to 30-4-22.

30-4-25 Site Specific Development Plans

30-4-25.1 Purpose

The purpose of this section is to implement the provisions of Section 160A-385.1 of the North Carolina General Statutes for the establishment of a statutory zoning vested right upon the approval of a Site Specific Development Plan.
30-4-25.2 Establishment of a Zoning Vested Right

A. A zoning vested right is deemed established upon the valid approval, or conditional approval, by the Planning Board or City Council, as applicable, of a Site Specific Development Plan.

B. In approving a Site Specific Development Plan, the Planning Board or City Council may impose additional terms and conditions as deemed reasonably necessary to protect the public health, safety, and welfare.

C. Site Specific Development Plans requiring a variance prior to final approval may not receive zoning vested right status until the necessary variance has been obtained.

D. The establishment of a zoning vested right does not preclude the application of overlay zoning that imposes additional requirements that do not affect the allowable type or intensity of use, or other ordinances or regulations that are general in nature and are applicable to all property subject to land use regulation by the city. These may include, but are not limited to, building, fire, plumbing, electrical, and mechanical codes. All otherwise applicable new or amended regulations become effective with respect to property that is subject to a Site Specific Development Plan upon the expiration or termination of the zoning vested right in accordance with this section.

E. A zoning vested right is not a personal right, but attaches to and runs with the applicable property. After approval of a Site Specific Development Plan, all successors to the original landowner are entitled to exercise such right as long as the zoning vested right remains valid.

F. A zoning vested right only protects the landowner from zoning amendments that affect the allowable type or intensity of use of property. However, it does not protect the landowner from zoning amendments that do not affect the allowable type or intensity of use of property or from nonzoning amendments to this ordinance.

30-4-25.3 Approval Procedure

A. Application
   An application for Site Specific Development Plan approval must be processed in accordance with this section and must be considered by the Planning Board or City Council, as applicable, for the specific type of zoning or land use approval being considered.

   1. In order for a zoning vested right to be established upon approval of a Site Specific Development Plan, the applicant must indicate at the time of application, on a form provided by the Planning and Community Development Department, that a zoning vested right is being sought.

   2. An application must be accompanied by a Site Specific Development Plan. The Planning and Community Development Director or Technical Review Committee, as specified in 30-4-15.2(B) must approve the Site Specific Development Plan for submission before it may be considered by the Planning Board. The Planning Board must consider the Site Specific Development Plan at a regularly scheduled meeting not less than 24 days after the Planning and Community Development Director or Technical Review Committee has approved it for submission.

   3. Each site plan or other document referring to a Site Specific Development Plan must contain the following notation:

      Approval of this plan establishes a zoning vested right under NCGS 160A-385.1. Unless terminated at an earlier date, the zoning vested right shall be valid until ________________.

B. Notification
   Notification must be provided in accordance with 30-4-1.4.

C. Public Hearing
The Planning Board must hold a public hearing on the application. The Planning and Community Development Director must present the application to the Planning Board, together with the Planning and Community Development Director's or Technical Review Committee's recommendations.

D. **Continuance**
   The Planning Board or City Council may continue a zoning vested right request for up to 2 months provided the reason for the continuance is stated in the motion to continue. Nothing in this section prohibits a continuance from being granted for a greater period of time provided it is mutually agreed upon by all parties concerned. Upon failure of the Planning Board to act upon a request following all proper continuances, or if no action is taken, the petitioner may take the zoning vested right application to the City Council without a recommendation from the Planning Board. Upon failure of the City Council to act on a request following all proper continuances, the request is deemed to be denied.

E. **Voting**
   A concurring affirmative vote by at least a majority of those members present and voting is required for the Planning Board to approve a zoning vested right application.

F. **Appeals**
   If a zoning vested right request has been denied or granted conditional approval, the applicant may appeal to the City Council in accordance with 30-4-1.6.

G. **Action by City Council**
   The City Council may hear only applications that have first been heard by the Planning Board as provided for in this section. Upon receipt of proper appeals, the City Council must hold a public hearing. After completion of the public hearing, the City Council must take such lawful action as it deems advisable.

H. **Subsequent Reviews and Approvals**
   Following approval or conditional approval of a Site Specific Development Plan, nothing in this section exempts such a plan from subsequent reviews and approvals to ensure compliance with the original approval.

### 30-4-25.4 Changes or Amendments

All changes or amendments to an approved Site Specific Development Plan which affect the allowable type or intensity of use must be resubmitted as a new application.

### 30-4-25.5 Duration

A. A zoning right that has been vested as provided in this section remains vested for a period of up to 2 years. This vesting period may not be extended by any changes or amendments to a Site Specific Development Plan.

B. Upon issuance of a building permit, the expiration provisions of Section 160A-418 of the North Carolina General Statutes and the revocation provisions of Section 160A-422 of the North Carolina General Statutes apply, except that a building permit will not expire or be revoked because of the running of time while a zoning vested right under this section remains valid.

### 30-4-25.6 Termination

A zoning right that has been vested as provided in this section terminates:

A. At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;

B. With the written consent of the affected landowner;
C. Upon findings by the City Council, by ordinance after notice and a public hearing, that natural or man-
made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat
to the public health, safety, and welfare if the project were to proceed as contemplated in the Site Specific
Development Plan;

D. Upon payment to the affected landowner of compensation for all costs, expenses, and other losses
incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all
architectural, planning, marketing, legal, and other consultant’s fees incurred after approval by the city,
together with interest at the legal rate until paid. Compensation will not include any diminution in the value
of the property which is caused by such action;

E. Upon findings by the City Council, by ordinance after notice and a hearing, that the landowner or his
representative intentionally supplied inaccurate information or made material misrepresentations which
made a difference in the approval of the Site Specific Development Plan; or

F. Upon enactment or promulgation of a state or federal law or regulation that precludes development as
contemplated in the Site Specific Development Plan, in which case the City Council may modify the
affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the
plan, by ordinance after notice and a hearing.

30-4-25.7 Violations

Any violation of a term or condition involved in the granting of a zoning vested right will be treated the same
as a violation of this ordinance and is subject to the same remedies and penalties as any such violation in
accordance with Article 5. In addition, the Planning Board may, after public hearing, revoke any zoning vested
right for failure to abide by any such term or condition.

30-4-25.8 Voluntary Annexation

A petition for annexation filed with the city under Section 160A-31 or 160A-58.1 of the North Carolina General
Statutes must contain a signed statement declaring whether or not any zoning vested right with respect to the
properties subject to the petition has been established under Section 160A-385.1 or Section 153A-344.1 of the
North Carolina General Statutes. A statement that declares that no zoning vested right has been established
under Section 160A-385.1 or Section 153A-344.1 of the North Carolina General Statutes, or the failure to sign
a statement declaring whether or not a zoning vested right has been established, is binding on the landowner
and any potential zoning vested right will be terminated.

30-4-25.9 Limitations

Nothing in this section is intended or may be interpreted to create any vested right other than those
established pursuant to Section 160A-385.1 of the North Carolina General Statutes.

30-4-25.10 Repeal

In the event that Section 160A-385.1 of the North Carolina General Statutes is repealed, this section is
deemed repealed and the provisions no longer effective.

30-4-26 Permits and Certificates

30-4-26.1 General Application Requirements

A. Submission
All applications for permits and certificates under this ordinance must be submitted by the owner of the property or his authorized agent, unless otherwise specified. The appropriate department director (Planning and Community Development, Engineering and Inspections, Water Resources or Transportation) may require reasonable proof of agency from any person submitting an application as agent.

B. **Form of Submission**
An application for any permit or certificate under this ordinance must be submitted according to the requirements of the department issuing the permit or certificate, together with any required fees.

C. **Waiver of Submission Requirements**
The appropriate director may waive submission of certain required information when the information is deemed unnecessary to review the application. However, the appropriate director may refuse to process an incomplete application.

D. **Processing**
All applications for permits and certificates must be submitted, reviewed, and processed in accordance with the requirements of this ordinance.

E. **Exemptions**
Certain activities are exempted from the requirement to obtain a permit or certificate. Other regulations contained in this ordinance still apply to these activities, and other permits and/or certificates may be required. Whenever there is a question concerning the need for permits or certificates, the appropriate director should be contacted.

F. **Order of Issuance**
1. **Permits Issued Prior to Site Plan or Subdivision Preliminary Plat Approval**
The Engineering and Inspections Director may issue permits for temporary construction trailers, safety structures, and other customary construction structures prior to Site Plan or Subdivision Preliminary Plat approval and in accordance with 30-4-26.2(A)2).

2. **Permits Issued After Site Plan or Subdivision Preliminary Plat Approval**
The Engineering and Inspections Director may issue permits for model homes and buildings in Group Developments (including townhouses and condominiums) after approval of Site Plans or Subdivision Preliminary Plats and construction and utility plans (where required).

3. **Permits and Plans in Airport Overlay District**
   Within the -OA, **Airport Overlay District** all permit applications, site plans and other plans proposing buildings, signs and other structures with a height of 50 feet or more must be accompanied by written documentation from the Piedmont Triad International Airport Authority indicating that the proposal complies with all applicable airport regulations. No permit or other plan approval may be granted without such written documentation.

4. **Permits and Plans in a Watershed Critical Area or General Watershed Area**
   Except as provided in subparagraph 30-4-26.1(F)1) above, or grading permits as provided in 30-4-26.2 below, no permit or plan approval may be granted until a watershed development plan has been approved.

G. **Compliance with Permits and Certificates**
The issuance of permits and certificates listed in this section based upon approved plans or applications authorizes only the use, arrangement, construction, or development activity set forth in such approved plans or applications.

H. **Phasing of Projects**
Projects may be developed in phases as long as compliance with this ordinance is achieved in each phase.
30-4-26.2 Grading Permit

A. Applicability

1. Unless exempted below, a grading permit must be obtained prior to commencement of any land-disturbing activity. The grading permit may be obtained through the procedures established by the Engineering and Inspections Director in accordance with applicable state law, requirements of this ordinance, and the Soil Erosion and Sedimentation regulations of 30-12-6. The grading permit must be posted in a prominent place on the site of the land-disturbing activity at all times it is in effect. A Certificate of Erosion Control Performance is required in accordance with 30-4-26.9.

2. Grading permits may be issued in advance of other permits and approvals except they may not be issued before floodplain development permits, no impact/no-rise certification, conditional letter of map revision (CLOMR) or tree disturbance permits (30-4-26.3).

3. Soil erosion and sedimentation control devices may be installed prior to approval of construction and utility plans (see 30-4-16).

B. Duration and Renewal

1. Permit Duration
   If the work authorized by a grading permit has not been completed within one year from the date of issuance, the permit is null and void unless renewed.

2. Renewal
   The grading permit may be renewed for an additional 180 days by making a written request to the Engineering and Inspections Director justifying the need for the permit renewal. No fee is required for renewal of the grading permit but applicable surety must remain in effect.

C. Exempted Activities

Grading permits are not required for the following land-disturbing activities:

1. for the purpose of fighting fires;

2. for the stockpiling of raw or processed sand, stone, or gravel in material processing plants and storage yards, provided that sediment control measures have been utilized to protect against off-site damage;

3. undertaken on agricultural land for the production of plants and animals useful to man, including but not limited to: forage and sod crops, grain and feed crops, tobacco, cotton and peanuts; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, including the breeding and grazing of any or all such animals; bees and avian products; fur animals;

4. undertaken on forest land for the production and harvesting of timber and timber products and which are conducted in accordance with Forest Practice Guidelines Related to Water Quality (best management practices) as adopted by the North Carolina Department of Environmental and Natural Resources (DENR). If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with Forest Practice Guidelines Related to Water Quality, the provisions of this ordinance apply to such activity and any related land-disturbing activity on the tract; and

5. undertaken by persons as defined in Section 113A-52(8) of the North Carolina General Statutes who are otherwise regulated by the provisions of The Mining Act of 1971, Sections 74-46 through 74-68 of the North Carolina General Statutes; and

6. over which the state has exclusive regulatory jurisdiction as provided in Section 113A-56(a) of the North Carolina General Statutes.
30-4-26.3 Tree Disturbance Permit

A. Applicability
A tree disturbance permit is an official authorization that must be issued by the city prior to any tree-disturbing activities. Tree-disturbing activities include the cutting and/or damage to the critical root zone of live trees with a diameter at breast height of 4 inches or greater on sites not accompanied by a development plan, except as expressly exempted pursuant to 30-12-1.2 and 30-12-1.3.

B. Requirements for a Tree Disturbance Permit
1. Identify and protect the required tree conservation area, as specified in 30-12-1.
2. Submit a tree conservation plan as specified in 30-4-26.3(C).

C. Tree Conservation Plan Approval
1. General
   Approval of a tree conservation plan is required for all nonexempt developments and activities in accordance with 30-12-1.2 and 30-12-1.3. The tree conservation plan must be submitted along with all other required information to the Technical Review Committee. Tree conservation plan information must be included on all grading plans, erosion control plans and tree disturbance permit applications.

2. Plans
   Tree conservation plans must identify locations for the following items:
   a. boundaries of the required tree conservation area;
   b. required planting yards;
   c. protected trees within the tree conservation area, including tree size and type or when protecting large groups or stands of trees the species composition may be expressed as a forest type and diameters may be expressed as a range from lowest to highest (e.g., mixed hardwoods: DBH 6”–25”);
   d. critical root zone of each proposed protected tree or group of trees or proposed undisturbed critical root zone buffer (See 30-12-1.4(B)1);
   e. limits of clearing;
   f. grading;
   g. trenching;
   h. required tree conservation measures including required fencing and signage;
   i. overhead and underground utilities and easements;
   j. areas of reforestation, if any; and
   k. stream buffers, if any.

3. Plan Notes
   The following required notes must be included on all tree conservation plans, erosion control plans, grading plans and tree disturbance permit plans:
   a. Contact the Planning and Community Development Director to schedule a pre-construction meeting before any tree disturbance, except as noted in 30-12-1.3, occurs on this site.
   b. All tree conservation devices must be installed before inspection by the Planning and Community Development Director and before any tree disturbance activities, except as noted in 30-12-1.3, occur.
c. Removal of or damage to trees in the tree conservation area will be subject to all available remedies and penalties under the city’s development ordinance.

d. No parking, storage, dirt stockpiling, concrete washout or any other activities is permitted in the tree conservation area.

4. **Review**
   Tree conservation plans must be reviewed by the Planning and Community Development Director for conformance with applicable provisions of this section (30-12-1). The plans will either be determined to be in compliance and approved or determined to not be in compliance and returned for revisions. Reasons for return must be noted on the proposed plans.

5. **Tree Conservation Measures**
   All tree conservation measures must be installed prior to any tree disturbing activities except those necessary to install the tree conservation and or temporary soil erosion control measures. The developer must contact the Planning and Community Development Director to conduct an inspection of all tree conservation devices before any non-exempt tree disturbing activities.

6. **Inspections**
   a. The Planning and Community Development Director will conduct follow-up site inspections for enforcement of the tree conservation requirements of this ordinance.
   
   b. The developer must contact the Planning and Community Development Director to conduct an intermediate inspection of the tree conservation requirements after the site grading has been completed but before installation of landscaping.
   
   c. The developer must contact the Planning and Community Development Director to conduct a final inspection of the tree conservation requirements before being issued a Certificate of Occupancy.

D. **Timing**
   Tree disturbance permits must be issued in advance of or simultaneous with all other permits and approvals including watershed development plans and grading permits.

E. **Permit Duration and Renewal**

1. **Permit Duration**
   If the work authorized by a tree disturbance permit has not been completed within one year from the date of issuance, the permit is null and void unless renewed.

2. **Renewal**
   A tree disturbance permit may be renewed for an additional 180 days by written request to the Planning and Community Development Director justifying the need for permit renewal. No fee is required for renewal of a tree disturbance permit.

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**30-4-26.4 Building Permits**

A. **Applicability**

1. Unless exempted below, a building permit must be obtained prior to commencement of any applicable construction activity or sign placement. The building permit may be obtained through the Engineering and Inspections Department.

2. If required, well or septic tank permits, driveway permits, site or plot plans, and watershed development plans must be issued or approved prior to issuance of building permits.

B. **Exemptions**
   Building permits are not required for the following facilities:
1. Buildings owned or constructed by the State of North Carolina in accordance with Section 143-135.1 of the North Carolina General Statutes or by the federal government in accordance with federal law; and

2. Types of buildings listed under Section 101.4 of the North Carolina Building Code, including:
   a. Equipment for storing, handling, transporting, and utilizing liquefied petroleum gases for fuel purposes or anhydrous ammonia or other liquid fertilizers; and
   b. Equipment or facilities, other than buildings, of a public utility or of an electric or telephone membership corporation.

### 30-4-26.5 Sign Permits

#### A. Permanent Sign Permit

1. **Applicability**
   If required by Article 14, a sign permit must be obtained prior to commencement of any sign construction activity. The sign permit may be obtained through the Planning and Community Development Director.

2. **Lapse of Use**
   A sign permit becomes null and void if the corresponding activity on the premises is discontinued for a continuous period of 90 days or more in accordance with 30-14-13.4.

3. **Permit Duration**
   If the work authorized by a sign permit has not been completed within 180 days from the date of issuance, the permit is null and void.

4. **Assignment and Transfer**
   A current and valid sign permit is freely assignable to a successor as owner of the property or holder of a privilege license for the same premises, subject only to filing such application as the Planning and Community Development Director may require. The assignment is accomplished by filing and does not require approval.

#### B. Temporary Sign Permit

1. **Applicability**
   A temporary sign permit must be obtained prior to installation or erection of a temporary sign in accordance with 30-14-10. The temporary sign permit may be obtained through the Planning and Community Development Director.

2. **Application Requirements**
   In addition to the general requirements in 30-4-26.1, applications for temporary sign permit must include the following:
   a. A map showing the limits of all applicable streets to be closed and all sign locations.
   b. A certificate of fire retardancy and samples of the material must be submitted to the Fire Department for approval.
   c. If a sign is to be attached to or erected from any pole owned by the utility company or attached to any building owned by the property owner, a signed letter of permission from the proper utility company and/or property owner, holding the city harmless.

3. **Inspection Required**
   Manner of installation and attachment of signs must be approved by both the Engineering and Inspections Director and Fire Inspector based on established safety standards.

#### C. Pole-Mounted Banner
1. **Applicability**
   A pole-mounted banner permit must be obtained prior to installation or erection of a pole-mounted banner in any public street right-of-way (see 30-14-7.3(E)). The pole-mounted banner permit application may be obtained through the Planning and Community Development Director.

2. **Application Requirements**
   In addition to the general requirements in 30-4-26.1, the following requirements apply:
   
   a. Pole-mounted banner applications must be submitted by non-profit, governmental, civic, fraternal, neighborhood, social, and service organizations.
   
   b. An application fee is not required for banners in the Central Business District.
   
   c. The application must be accompanied by the following:
      
      i. Map showing location of banners;
      
      ii. Verification that the banner’s construction is able to withstand the average prevailing winds during the time displayed;
      
      iii. Approval by both the Building Inspector and the Fire Chief; and
      
      iv. Letter of permission from the proper utility company and/or property owner, holding the city harmless, if a banner is being attached to or erected from any pole owned by the utility company.
      
      v. A certificate of fire retardancy and samples of the material shall be submitted to the Fire Department for approval.
   
   d. Final approval will be made and a permit issued by the Planning and Community Development Director.

**30-4-26.6 Flood Plain Development Permit**

A floodplain development permit must be obtained in accordance with the provisions of this ordinance prior to the commencement of any development activities within special flood hazard areas and future conditions flood hazard areas. Required information relating to development activities shall include, but not be limited to the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. The following information is required:

A. A plan drawn to scale showing the following specific details of the proposed floodplain development:
   
   1. The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
   
   2. The boundary of the special flood hazard area or future conditions flood hazard area as delineated on the FIRM, or a statement that the entire lot is within the special flood hazard area or future conditions flood hazard area;
   
   3. Flood zone(s) designation of the proposed development area as shown on the FIRM;
   
   4. The boundary of the floodway(s) or non-encroachment area(s);
   
   5. The base flood elevation (BFE) or future conditions flood elevation (refer to 30-12-2.1(F); 30-3-13.11 and 30-3-13.12; and 30-12-2.3(C)2);
   
   6. The old and new location of any watercourse that will be altered or relocated as a result of proposed development;
   
   7. Certification of the plan by a registered land surveyor or professional engineer.
B. The proposed elevation of all development within a special flood hazard area or future conditions flood hazard area including but not limited to:

1. Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
2. Elevation in relation to mean sea level to which any nonresidential structure in Zone AE, A, AH, AO, A1-A30, or X (Future) will be flood-proofed; and
3. Elevation in relation to mean sea level to which any proposed utility systems will be elevated or flood-proofed.

C. If flood-proofing, a Flood-proofing Certificate (FEMA Form 81-65) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of flood-proofing measures.

D. A foundation plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:

1. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);
2. Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with 30-12-2.3(B)5)c), when solid foundation perimeter walls are used in Zones A, AO, AE, AH, A1-A30, and X (Future);

E. Usage details of any enclosed areas below the lowest floor.

F. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

G. Copies of all other local, state and federal permits required prior to floodplain development permit issuance (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.).

H. Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure 30-12-2.3(B)4) of this ordinance is met.

I. A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation.

J. The Floodplain Development Permit shall include, but not be limited to:

1. A description of the development to be permitted under the floodplain development permit.
2. The special flood hazard area or future conditions flood hazard area determination for the proposed development per available data specified in 30-12-2.1(F).
3. The regulatory flood protection elevation required for the reference level and all attendant utilities.
4. The regulatory flood protection elevation required for the protection of all public utilities.
5. All certification submittal requirements with timelines.
6. A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
8. Limitations of enclosure use below the lowest floor, if applicable (i.e., parking, building access and limited storage).
30-4-26.7 Final Certificate of Occupancy

A. A final certificate of occupancy authorizing occupancy of a structure or property must be issued by the Engineering and Inspections Director after completion of construction or alterations of such building, structure, or development activity after:
   1. Inspection by the appropriate departments to determine compliance with all applicable provisions of this ordinance; and
   2. Compliance with all applicable provisions of related health, building, and fire codes.

B. A final certificate of occupancy may not be issued for any building, structure, or development activity not in compliance with the provisions of this ordinance.

30-4-26.8 Temporary Certificate of Occupancy

A. **Applicability**
   A temporary certificate of occupancy authorizing occupancy of a structure or property may be issued by the Engineering and Inspections Director in consultation with the appropriate officials prior to the completion of all construction, alterations, or changes if occupancy does not violate any health or safety considerations of applicable codes.

B. **Duration**
   A Temporary Certificate of Occupancy may be issued for a time period the Engineering and Inspections Director in consultation with the appropriate officials deems appropriate to complete the work but not to exceed 180 days, except as specified in 30-4-15.12(B)

C. **Surety**
   A surety satisfactory to the Engineering and Inspections Director in consultation with the appropriate officials may be required in an amount sufficient to ensure that the missing elements specified in the plan will be completed within the period of the temporary certificate. Such surety will be held and monitored by the appropriate department.

D. **Work Incomplete**
   If the work is not completed within the period of the temporary certificate of occupancy, the Engineering and Inspections Director must notify the owner to cease use of the building and land immediately. The owner may not resume such use until a final certificate of occupancy has been issued. Failure to cease use subjects the owner or operator to civil penalties and other enforcement actions available under this ordinance.

30-4-26.9 Certificate of Erosion Control Performance

A certificate of erosion control performance may be issued after initial soil erosion and sedimentation control devices have been installed, inspected, and certified to be functioning properly in accordance with an approved grading plan. After issuance of a grading permit, grading on the site is limited to that required to install soil erosion and sedimentation control devices until approval by the Engineering and Inspections Director is obtained.

30-4-26.10 Certificate of Floor Elevation/Flood-proofing

A. **Elevation Certificate**
   An Elevation Certificate (FEMA Form 81-31) is required after the reference level is established. Within 7 days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the 7-day period and prior to submission of the certification shall be at the
permit holder’s risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop work order for the project. A final as-built Elevation Certificate (FEMA Form 81-31) is required after construction is completed and prior to Certificate of Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Occupancy.

B. **Flood-proofing Certificate**
   If nonresidential flood-proofing is used to meet the regulatory flood protection elevation requirements, a Flood-proofing Certificate (FEMA Form 81-65), with supporting data and an operational plan, is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the flood-proofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Flood-proofing certification shall be prepared by or under the direct supervision of a professional engineer or architect, who is authorized by the State of North Carolina to certify such information, and certified by same. The Floodplain Administrator shall review the certificate data and plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Occupancy.

C. **Manufactured Dwelling**
   If a manufactured dwelling is placed within Zone A, AO, AE, A1-A30, or X (Future) and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per 30-12-2.3(B)3).

D. **Watercourse Alteration**
   If a watercourse is to be altered or relocated, a professional engineer’s certified report must be submitted by the permit applicant prior to issuance of a floodplain development permit.

E. **Certification Exemptions**
   The following structures, if located within Zone A, AO, AE, A1-A30, or X (Future) are exempt from the elevation/flood-proofing certification requirements specified in items (A) and (B) of this subsection:
   1. Recreational vehicles meeting requirements of 30-12-2.3(B)4(a);
   2. Temporary nonresidential structures meeting requirements of 30-12-2.3(B)7); and
   3. Accessory structures less than 150 square feet meeting requirements of 30-12-2.3(B)8).

30-4-26.11 Determination of No Practical Alternatives

A. Persons who wish to undertake uses designated as exempt or allowable shall submit a request for a “no practical alternatives” determination to the City of Greensboro. Submission may be made as part of a Stormwater and/or Watershed Development Plan. The applicant shall certify that the project meets all the following criteria for a determination that there is no practical alternative:
   1. The basic project purpose cannot be practically accomplished in a manner that would better minimize disturbance, preserve aquatic life and habitat, and protect water quality;
   2. The use cannot practically be reduced in size or density, reconfigured or redesigned to better minimize disturbance, preserve aquatic life and habitat, and protect water quality; and
3. Best management practices shall be used if necessary to minimize disturbance, preserve aquatic life and habitat, and protect water quality.

B. The applicant shall also submit at least the following information in support of their assertion that there is no practical alternative:
   1. The name, address and phone number of the applicant;
   2. The nature of the activity to be conducted by the applicant;
   3. The location of the activity, including the jurisdiction;
   4. A map of sufficient detail to accurately delineate the boundaries of the land to be utilized in carrying out the activity, the location and dimensions of any disturbance in riparian buffers associated with the activity, and the extent of riparian buffers on the land;
   5. An explanation of why this plan for the activity cannot be practically accomplished, reduced or reconfigured to better minimize disturbance to the riparian buffer, preserve aquatic life and habitat and protect water quality; and
   6. Plans for any best management practices proposed to be used to control the impacts associated with the activity.

C. Within 60 days of a submittal that includes the information specified in 30-4-26.11(B), the Water Resources Director shall review the entire project and make a finding of fact that the criteria have been met. A finding of no practical alternative shall result in issuance of an authorization approval. Failure to act within 60 days shall be construed as a finding that there is no practical alternative and an authorization approval shall be issued to the applicant unless one of the following occurs:
   1. The applicant agrees, in writing, to a longer period;
   2. The Water Resources Director determines that the applicant has failed to furnish requested information necessary for the city to make a competent determination, including, but not limited to Technical Review Committee approval;
   3. The final decision is to be made pursuant to a public hearing; or
   4. The applicant refuses access to its records or premises for the purpose of gathering information necessary for the city to make a competent determination.

D. The Water Resources Director may attach conditions to the authorization approval that support the purpose, spirit and intent of this ordinance.

E. Any appeals of determinations regarding authorization approvals shall be referred to the Director of the Division of Water Quality, c/o the 401 Oversight Express Permitting Unit, or its successor. The decision by the Director of Water Quality is subject to review as provided in G.S. 150B Article 3 and 4.

(Added by Ord. 10-161 on 12/1/10)
Effective on: 12/2/2014

30-4-27 Appeal of Zoning Administrative Decision

30-4-27.1 Applicability

An appeal by any person with standing, as defined in G.S. 160A-393(d), aggrieved by a final zoning order, interpretation or decision of any administrative official authorized to make decisions in regard to the provisions of this ordinance may be taken to the Board of Adjustment, except as otherwise expressly stated.
30-4-27.2 Application Requirements

A. An appeal of a zoning administrative decision may be initiated by filing a written notice of appeal specifying the grounds for the appeal with the Planning and Community Development Director.

B. An application to appeal must be prepared in accordance with the common review procedures of 30-4-1 and submitted to the Planning and Community Development Department. The application must be accompanied by sufficient information to allow for a competent review by the Board of Adjustment.

C. An application to appeal is considered filed when a complete application is delivered to the Planning and Community Development Director. The date and time of filing must be entered on the notice.

30-4-27.3 Deadline for Submission of Application

An appeal of a zoning administrative decision must be filed with the Planning Director within 30 days of the date the appealing party receives actual or constructive notice of the decision from which the appeal is taken. With respect to an appeal of a zoning administrative decision approving a development application, constructive notice shall include, but shall not be limited to, any visible signs of the initiation of construction work on a site.

It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words “Zoning Decision” or “Subdivision Decision” in letters at least six inches high and identifying the means to contact an official for information about the decision is predominately posted on the property for at least ten days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision.
30-4-27.4 Notice and Public Hearings

Once the application has been filed, the Planning and Community Development Director must schedule a public hearing at the first available Board of Adjustment meeting and give public notice as forth in 30-4-1.4.

30-4-27.5 Action by the Planning Director

The Planning Director must transmit to the Board of Adjustment, owner of the property and appellant (if different than the property owner) all the notes, applications, and other records relating to the decision being appealed.

30-4-27.6 Action by Board of Adjustment

A. The Planning and Community Development Director must present the staff interpretation of the ordinance provisions that are the subject of appeal. Following the staff presentation, the applicant must be given an opportunity to present evidence in support of a different interpretation.

B. The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement, decision, or determination being appealed and may 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 Adjustment has all the powers of the official from whom the appeal is taken.

C. If a motion to reverse or modify is not made, or fails to receive the affirmative vote of 4 members necessary for adoption, then the appeal is deemed denied.

D. Any motion to affirm, overturn or modify a decision must state the specific reasons or findings of fact that support the motion.

30-4-27.7 Effect of Appeal

A. An appeal stays all proceedings in furtherance of the action appealed, unless the administrative official from whom the appeal is taken certifies to the Board of Adjustment that, because of facts stated in the certificate, a stay would, in their opinion, cause imminent peril to life or property or that because the violation is transitory in nature a stay would seriously interfere with the enforcement of this ordinance.

B. An appeal does not stop action lawfully approved (including construction activities authorized by a building permit); only actions presumed in violation of this ordinance are stayed.

30-4-27.8 Appeal of Board of Adjustment Decision

Board of Adjustment final decisions may be appealed to the Guilford County Superior Court who must hear the appeal on the record, in accordance with the provisions of 30-4-1.7.

(Amended by Ord. 13-122 on 9/17/13)

30-4-28 [Reserved]

(Amended by Ord. 12-114 on 10/2/12)