

## 5.8 Procedures for Submission and Review of Development Plans.

### A. Application.

1. Application for *Development Plan* Approval by the *Plan Commission* shall be in compliance with the following procedures:
  - a. Who May File.  
*Development Plans* may be initiated by a petition signed by the owners of the land involved in the petition.
  - b. Filing Deadline
    - (1) Pre-Filing Conference – In order to avoid delays in the processing of a *Development Plan*, the applicant is encouraged to prepare a *Concept Plan* and consult with the *Director* on an informal basis to learn of any comments, concerns and questions regarding the proposed *Development Plan* application. The *Concept Plan* shall be prepared with as much information and detail as is available at the time of presenting the *Concept Plan*. The applicant is hereby advised that the greater the level of information and detail shown on the *Concept Plan*, the greater the value of the *Concept Plan* review and comments.
    - (2) Architectural and Site Design Review – All *Development Plan* petitions submitted for Architectural and Site Design Review only shall be filed at least thirty-seven (37) days prior to the initial public hearing at which they are to be considered by the *Plan Commission*.
    - (3) Development Incentives – All other *Development Plan* petitions shall be filed at least thirty-seven (37) days prior to the initial public hearing at which they are to be considered by the *Plan Commission*.
  - c. Form of Filing  
All *Development Plan* Approval petitions to the *Plan Commission* shall be on forms provided by the Department of Planning and Zoning. In addition, site plans, surveys, legal descriptions, *Building* elevations, *Sign* details, proposed commitments and any other relevant supporting documentation shall be of a usable scale and quality.
  - d. Findings of Fact  
The petitioner shall, at the time of filing of the petition, file proposed detailed written findings of fact.
  - e. Specifying of Request  
All *Development Plan* Approval petitions shall specify the approvals requested. Any items, including proposed waivers of *Development Requirements* in connection with a *Development Plan* approval, even if indicated on the proposed plans, shall not be considered a part of the request presented to the *Plan Commission* for its consideration unless such waivers are specified in the petition.
  - f. Docketing by *Director*  
Each petition filed in proper form pursuant to the guidelines established by the Department of Planning and Zoning shall, within ten (10) days of filing, be numbered and docketed by the *Director* for an initial hearing by the *Plan Commission*.
  - g. Investigation of Petitions  
Upon assignment of a number and hearing date, the *Director* shall distribute a copy of the petition and relevant supporting documentation to the members of the *Technical Advisory Committee* or *Design Review Committee* for review and comment.
  - h. Notice Requirements  
Notice of all petitions for *Development Plan* approval which require a public hearing before the *Plan Commission* shall be given to all interested parties or property owners in the following manner:
    - (1) Notice by Publication.

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Notice shall be published by the *Plan Commission* in accordance with I.C. 5-3-1 at least fifteen (15) days prior to the date of the public hearing.

(2) Notice by Mailing.

Notice, in a form approved by the *Director* shall be mailed to each interested party.

Notice by mailing shall be given by registered or certified mail at least fifteen (15) days prior to the date of the hearing.

Interested parties for a *Development Plan* approval shall include all owners of adjoining parcels to a depth of two (2) ownerships or six hundred (600) feet, whichever is less, surrounding the perimeter of the area included in the petition.

(3) Posted Notice on Subject Property.

Notice, on a form prescribed by the *Plan Commission*, shall be posted in a conspicuous place on the subject property at least fifteen (15) days prior to the date of the hearing.

(4) Affidavit of Notice.

Petitioner shall file an Affidavit of Notice with the Department of Planning and Zoning, in a form as specified by the Department of Planning and Zoning, indicating compliance with the above notice requirements not less than one (1) business day prior to the date of the public hearing. Copies of all "Receipt for Certified Mail" (white slips) and the originals of the "Domestic Return Receipts" (green cards) shall be filed with the Affidavit of Notice.

i. Conduct of Public Hearings.

All public hearings on a *Development Plan* Approval shall comply with the Conduct of Public Hearings section of the Rules of Procedure of the *Plan Commission*.

2. Application for *Development Plan* Approval by the *Director* shall be accomplished in compliance with the following procedures:

- a. Contact the *Director* to make an appointment to deliver the required plans and provide a brief explanation of the proposed *Development Plan*.
- b. *Director* shall have a period of not more than fifteen (15) days in which to review the proposed *Development Plan* and either make a decision concerning the *Development Plan* or request, in writing, additional information from the applicant.
- c. *Director* may seek the advice and comment of members of the *Technical Advisory Committee* or the *Design Review Committee* prior to making a decision.
- d. Any *Development Plan* approval which has been delegated to the *Director* may occur without public notice and without a public hearing and shall be submitted as an *Improvement Location Permit* (ILP).
- e. Any decision of the *Director* under this Article, may be appealed by any interested party to the *Plan Commission* within thirty (30) days of such decision by filing a letter with the *Plan Commission* requesting a hearing by the *Plan Commission*. Said appeal shall be heard by the *Plan Commission* at the *Plan Commission's* next regularly scheduled public hearing for which published notice of the appeal pursuant to I.C. 5-3-1 can be provided.

**B. Fees.**

In order to defray administrative costs, the fees as set forth in the Fee Schedule as approved by the *Plan Commission* and the Town Council for *Development Plan* Approval by *Director* and for *Development Plan* Approval by the *Plan Commission* are to be paid by the applicant at the time of filing an application for *Development Plan* Approval.

**C. Notice.**

All notices for public hearings regarding a *Development Plan* Approval before the *Plan Commission* shall be provided in accordance with the requirements set forth in the Rules of Procedure of the *Plan Commission*.

Notice shall not be required for *Development Plan* Approvals delegated to *Director*.

**D. Hearings.**

All public hearings regarding a *Development Plan* Approval before the *Plan Commission* shall be conducted in accordance with the procedures set forth in the Rules of Procedure of the *Plan Commission*.

**E. Amendments.**

1. Amendments to *Development Plans* pending determination by the *Plan Commission*.

Amendments to *Development Plans* pending determination by the *Plan Commission* may be made by the applicant at any time prior to a vote being called for by the *Plan Commission*. If, in the sole discretion of the *Plan Commission*, the proposed amendment is of such a nature that additional time is needed for review, the *Plan Commission* may continue the consideration of such amended *Development Plan* to the next meeting of the *Plan Commission*.

2. Amendments to *Development Plans* pending determination by the *Director*.

Amendments to *Development Plans* pending determination by the *Director* may be made by the applicant at any time prior to a determination being made by the *Director*. If, in the sole discretion of the *Director*, the proposed amendment is of such a nature that additional time is needed for review, the amended *Development Plan* shall be reviewed within the time frames set forth above for the review of *Development Plans* by the *Director*.

3. Amendments to Approved *Development Plans*.

- a. Applicability – The amendment procedures of this Article 5.8, E., 3., shall apply to:

- (1) Minor amendments to any *Development Plan* which has already received approval from the *Plan Commission* or the *Director*; and,
- (2) Minor additions to sites which include existing development authorized prior to the effective date of this Ordinance.

- b. Determination of Minor Amendments or Minor Additions.

Those projects listed in:

- (1) Table 5.5-A: Gateway Corridor Development Plans;
- (2) Table 5.5-B: Commercial / Industrial Development Plans Within 600 Feet of a Residential District;
- (3) Table 5.6-A: TC: Town Center District Development Plans; or,
- (4) Table 5.6-B: R-U: Urban Residential District and MU: Mixed Use District Development Plans,

as having an "Approval Authority" of "Director" shall be eligible for review and determination through the *Improvement Location Permit* process as a minor amendment or a minor addition without the filing of a *Development Plan*.

All projects listed on said Tables as having an "Approval Authority" of "Plan Commission" shall file a *Development Plan* for review and determination by the *Plan Commission*.

- c. *Director's* Authority:

- (1) The *Director* is hereby authorized to approve minor amendments to *Development Plans* or minor additions to sites which include existing development through the *Improvement Location Permit* process and without a public hearing if, in the determination of the *Director*, the requested minor amendments or minor additions:

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- (a) do not adversely impact the purpose or intent of the overall development;
  - (b) do not include a substantial increase in intensity of any land use relative to the previous land use on the real estate; and,
  - (c) comply with the applicable *Development Requirements* specified in Article 5.2, Article 5.3, Article 5.4, Article 5.5 or Article 5.6.
- (2) If the *Director* determines that a request for minor amendment to a *Development Plan* or a minor addition to an existing development does not comply with the requirements set forth above, the *Director* may:
- (a) deny the request; or,
  - (b) refer to the request to the *Plan Commission* for determination.
- Any request referred to the *Plan Commission* for determination shall be accompanied by an application for *Development Plan* Approval and shall be subject to all application, fee, notice and hearing requirements specified above for new development.
- d. Reporting - Minor amendments or minor additions authorized by the *Director* shall be reported, in writing, to the *Plan Commission* at the next regular meeting of the *Plan Commission*.
  - e. Appeal – Any decision of the *Director* regarding a minor amendment of a *Development Plan* or a minor addition may be appealed by any interested party as follows:
    - (1) an appeal of the interpretation of a *Development Standard* of the applicable *District* shall be to the *Board of Zoning Appeals*;
    - (2) an appeal of the interpretation of any other *Development Requirement* specified in this Article V shall be to the *Plan Commission*; and,
    - (3) an appeal of a determination to approve or deny a minor amendment of a *Development Plan* or a minor addition shall be to the *Plan Commission*.All appeals shall be filed within thirty (30) days of such determination.

**F. Findings.**

All findings specified above for the approval of a *Development Plan* shall be reduced to writing and signed by the *Director* of the Department of Planning and Zoning in the case of a determination by the *Director*, or by the President of the *Plan Commission* in the case of a determination by the *Plan Commission*, and retained as a part of the permanent record of the determination.

**G. Duration of *Development Plan* Approval.**

Any *Development Plan* authorized by Article 5 – *Development Plan* Approvals shall be subject to the following duration provisions:

1. Any *Development Plan* which has been approved by the *Plan Commission* or the *Director* pursuant to this Article shall be valid for a period not to exceed three (3) years from the date of approval of such *Development Plan*.
2. In the case of a *Development Plan* approved by the *Plan Commission*, a complete *Improvement Location Permit* application shall be filed with the Department of Planning and Zoning prior to the expiration of such three (3) year period and shall be subject to the provisions of Article 11.2 – *Improvement Location Permits*.
3. In the case of a *Development Plan* approved by the *Director* in the form of an *Improvement Location Permit*, notwithstanding the one (1) year duration specified in Article 11.2, B., 1., the duration of such *Improvement Location Permit* shall be three (3) years. The *Improvement Location Permit* shall comply with all current *Development Standards and Requirements*. All other provisions of Article 11.2 – *Improvement Location Permits* shall apply.

4. If an *Improvement Location Permit* has not been filed with the Department of Planning & Zoning within one (1) year of approval of the *Development Plan*, the *Development Plan* shall be reviewed on an annual basis by the *Director* for compliance with current *Development Standards and Requirements*.