

Subdivision Regulations

Section 406 - Procedures for Minor Land Development and Minor Subdivision Approval

Minor plan review consists of two (2) stages, preliminary and final; provided, that unless otherwise set forth in this section, if a street creation or extension is involved, or a request for variances and/or special-use permits are submitted pursuant to a unified development application, a public hearing is required by the Planning Board.

A. Application types.

1. Applications requesting relief from the zoning ordinance.

a. Applications under this section which require relief which qualifies only as a modification shall proceed by filing an application under this chapter and a request for a modification to the zoning enforcement officer. If such modification is granted the modification shall then proceed to be reviewed by the Administrative Officer pursuant to the applicable requirements of this section. If the modification is denied or an objection is received, such application shall proceed under unified development plan review. The Administrative Officer shall not certify the application complete until action is taken by the zoning enforcement officer on the modification request.

b. Applications under this section which require relief from the literal provisions of the zoning ordinance in the form of a variance or special use permit shall be reviewed by the Planning Board under unified development plan review, and a request for review shall accompany the preliminary plan application.

c. Any application involving a street creation or extension shall be reviewed by the Planning Board and require a public hearing.

2. Other applications. The Administrative Officer shall review and grant, grant with conditions or deny all other applications under this section and may grant waivers of design standards as set forth in the local regulations and zoning ordinance. The Administrative Officer may utilize the Technical Review Committee for initial review and recommendation. The Administrative Officer may grant the following waivers:

a. Waivers from design standards of Article 5, Section [521](#) of these Regulations.

3. Minor subdivisions shall also include oversized lot subdivisions. Oversized lot subdivision is a subdivision of an existing lot:

a. Which results in the creation of a vacant lot or lots for residential use; and

b. Which resulting vacant residential lots are equal to or greater in lot area than the lot area of at least fifty percent (50%) of the developed residential lots within two hundred feet (200') of the lot proposed for subdivision, as confirmed by a professional land surveyor based on a compilation plan, as such term is defined by the rules and regulations for professional land surveying; and

c. Which resulting residential lots have access to available sewer and water, or have demonstrated the ability to drill a private well meeting state standards if no public water is available and/or the suitability and setbacks required for an on-site wastewater treatment system, where no public sewer is available; and

d. The resulting lots are not less than three thousand square feet (3,000 ft²) in lot size for each.

A lot, qualifying for this type of subdivision shall be reviewed under the requirements and procedures set forth in § 45-23-38, but shall not require zoning relief solely based on the resulting reduced lot area of the newly created lots. The resulting subdivided lots shall have the benefit of reduced requirements as set forth in § 45-24-38, and/or are eligible for the processes set forth in § 45-24-46, as applicable.

B. Submission requirements. Any applicant requesting approval of a proposed minor subdivision or minor land development, as defined in this chapter, shall submit to the Administrative Officer the items required by the submission checklist contained in Appendix A of these Regulations.

C. Certification. For each applicable stage of review, the application shall be certified, in writing, complete or incomplete by the Administrative Officer within twenty-five (25) days of the submission so long as a completed checklist of the requirements for submission are provided as part of the submission. If no street creation or extension is required, and/or unified development review is not requested, and a completed checklist of the requirements for submission are provided as part of the submission, such application shall be certified, in writing, complete or incomplete by the Administrative Officer within fifteen (15) days. The running of the time period set forth in this section will be deemed stopped upon the issuance of a certificate of incompleteness of the application by the Administrative Officer and will recommence upon the resubmission of a corrected application by the applicant. However, in no event will the Administrative Officer be required to certify a corrected submission as complete or incomplete less than ten (10) days after its resubmission.

D. Decision on preliminary plan. If no street creation or extension or unified development review is required, the Administrative Officer shall approve, deny, or approve with conditions, the preliminary plan within sixty-five (65) days of certification of completeness, or within any further time that is agreed to by the applicant and the board. If a street extension or creation is required, and/or the application is reviewed under the unified development plan review, the Planning Board will hold a public hearing prior to approval according to the requirements in Section [407.C.4.b.](#) of these regulations and will approve, deny, or approve with conditions, the preliminary plan within ninety-five (95) days of certification of completeness, or within any specified time that is agreed to by the applicant and the Board.

1. Failure to act. Failure of the Planning Board or Administrative Officer to act within the period prescribed constitutes approval of the preliminary plan and a certificate of the Administrative Officer as to the failure to act within the required time and the resulting approval will be issued on request of the applicant.

2. Re-assignment to major review. The Planning Board may re-assign a proposed minor project to major review only when the Planning Board is unable to make the positive findings required in Section [404](#) of these Regulations.

3. Final plan. Final plans shall be reviewed and approved by the Administrative Officer. The Officer will report its actions, in writing to the Planning Board at its next regular meeting, to be made part of the record. The Administrative Officer shall approve, deny, approve with conditions, or refer the application to the Planning Board based upon a finding that there is a major change within twenty-five (25) days of the certificate of completeness.

4. Modifications and changes to plans.

E. Minor changes to the plans approved at any stage may be approved administratively, by the Administrative Officer. The changes may be authorized without additional public hearings, at the discretion of the Administrative Officer. All changes shall be made part of the permanent record of the project application. This provision does not prohibit the Administrative Officer from requesting recommendation from either the Technical Review Committee or the permitting authority. Denial of the proposed change(s) shall be referred to the applicable permitting authority for review as a major change. Minor changes include the following:

- Changes to address typographical errors.

F. Major changes to the plans approved at any stage may be approved only by the applicable permitting authority and must follow the same review and hearing process

required for approval of preliminary plans, which shall include a public hearing if originally required as part of the application. Major changes include all changes not classified as a minor change.

1. The Administrative Officer shall notify the applicant in writing within fourteen (14) days of submission of the final plan application if the Administrative Officer determines the change to be a major change.

a. Appeal. Decisions under this section shall be considered an appealable decision pursuant to Section [805](#) of these Regulations.

b. Expiration of approvals. Approvals of a minor land-development or subdivision plan expires one year from the date of approval unless, within that period, a plat or plan, in conformity with approval, and as defined in this act, is submitted for signature and recording. Validity may be extended for a longer period, for cause shown, if requested by the applicant in writing, and approved by the Planning Board.