

(2) For purposes of nonresidential development in the VC, SC, UC, SI, and LIHS districts and in the same zoning districts with a critical area (IDA) designation:

(i) The maximum floor area allowed for the receiving parcel as determined in subpart 2 of part III of this Subtitle may be increased by a maximum of 25%;

(ii) The minimum landscape surface area for the receiving parcel as determined in subpart 2 of part III of this Subtitle may be decreased by a maximum of 25%; and

(iii) The maximum impervious area allowed for the receiving parcel as determined in subpart 2 of part III of this Subtitle may be increased by a maximum of 25%.

(3) In the AG district, eight (8) acres of land shall be permanently deed restricted as open space for each two hundred (200) square feet of floor area and five hundred (500) square feet of impervious area transferred to the receiving parcel.

(4) In the CS district located within the Critical Area Resource Conservation Area, twenty (20) acres of land shall be permanently deed restricted as open space, in accordance with Section 18-1-12 of this Subtitle, for each one thousand (1,000) square feet of floor area and 2,500 square feet of impervious area transferred to the receiving parcel.

(5) In the CS district located outside of the critical area, five (5) acres of land shall be permanently deed restricted as open space, in accordance with Section 18-1-12 of this Subtitle, for each two hundred (200) square feet of floor area and five hundred (500) square feet of impervious area transferred to the receiving parcel.

(e) Effect.

Any determination of the Planning Director under this Section:

(1) Is not final; and

(2) Shall be subject to amendment, modification, or rescission until the time when the transfer is final in accordance with Section 18-1-107 of this Subtitle.

18-1-107 Final Approval of Use.

(a) When final.

Transfer from a transferor parcel to a receiving parcel is final at the time when:

(1) Final subdivision approval or final site plan approval with respect to the receiving parcel, based upon use of development rights, has been given in accordance with Part VII of this Subtitle; and

(2) All development rights upon which such approval was based have been transferred to the County Commissioners as provided in Subsection (b) of this Section.

(b) Required instruments.

Final approval may not be given to any site plan or subdivision plan that involves the use of development rights transferred under the provisions of this Subpart until satisfactory evidence is presented that such of the following instruments as may be required to effect transfer of those rights to the County Commissioners have been approved as to form and legal sufficiency by the attorney to the Planning Commission and recorded among the land records of the County:

- (1) An original instrument of transfer to a transferee, other than the County Commissioners;
- (2) An instrument of transfer to the owner of the receiving parcel;
- (3) Instrument(s) of transfer between any intervening transferees; and
- (4) An instrument of transfer from the owner of the receiving parcel to the County Commissioners.

Subpart 4. Inclusionary Housing

18-1-108 Moderately Priced Dwelling Units

(a) Purpose and Intent.

(1) The purpose of this bylaw is to implement the housing goals of the Queen Anne County Comprehensive Plan Land Use Policy 4A by:

- (i) Amending the development regulations to include requirements for moderately priced dwelling units;
- (ii) Ensuring that private developers constructing moderately priced housing under this Subtitle incur no loss or penalty as a result thereof, and have reasonable prospects of realizing a profit on such units by providing density bonuses and incentives;
- (iii) Retaining opportunities for people that work in the County to live in the County;
- (iv) Encouraging the redevelopment and improvement of existing buildings by using these structures for moderately priced housing; and
- (v) Ensuring that housing options continue to be available to moderate-income residents, and for special needs populations, including but not limited to, the elderly.

(b) Definitions.

- (1) In general.

In this Subpart, unless another meaning is plainly intended, the following words have the meanings indicated.

(2) Applicant.

“Applicant” means any person, firm, partnership, association, joint venture, corporation, or any other entity or combination of entities, who submits to the Planning Commission for site plan, subdivision, or building permit approval under Part VII of this Subtitle, and which plan provides for the development of a total of twenty (20) or more dwelling units in one or more stages of development regardless of whether any land has been transferred to another party.

(3) At one location.

“At one location” means all adjacent land of the applicant if:

(i) The property lines are contiguous or nearly contiguous at any point;

(ii) The property lines are separated only by a public or private street, road, highway or utility right-of-way, or other public or private right of way at any point; or

(iii) The property lines are separated only by other land of the applicant which is not subject to this Subtitle at the time of any permit, site plan, development, or subdivision application by the applicant.

(4) Certificate of eligibility.

“Certificate of eligibility” means a certificate issued by the Housing Department, and signed by the person seeking to own or rent an MPDU and the Director of the Housing Department, that certifies that the person is qualified to buy or rent an MPDU.

(5) Consumer Price Index.

“Consumer Price Index” means the latest published version of the Consumer Price Index for All Urban Consumers (CPI-U) of the U.S. Department of Labor for the Baltimore metropolitan area.

(6) Control period.

“Control period” means the time an MPDU is subject to either resale price controls and owner occupancy requirements or maximum rental limits. The control period is ten (10) years for sale units and twenty (20) years for rental units, and begins on the date of initial sale or rental. If a sale or rental MPDU is sold to an eligible person within ten (10) years after its initial sale or rental, the unit must be treated as a new MPDU and a new control period must begin on the date of the sale or rental.

(7) Date of original sale.

“Date of original” sale means the date of settlement for purchase of a MPDU.

(8) Date of original rental.

“Date of original rental” means the date of the first lease agreement for a MPDU.

(9) Eligible person.

“Eligible” person means a person or household:

(i) Whose household median income is 80% or less than the average household median income for the Baltimore MSA, with adjustments for household size, as reported by the United States Department of Housing and Urban Development (HUD);

(ii) Who holds a valid certificate of eligibility that entitles the person or household to buy or rent an MPDU; and

(iii) Who has not owned any residential property during the previous five (5) years.

(10) Housing Department.

“Housing Department” means Queen Anne’s County Department of Housing and Community Services.

(11) Moderately Priced Dwelling Unit.

“Moderately Priced Dwelling Unit,” or “MPDU,” means a dwelling unit which:

(i) Is offered for sale or rent to eligible persons or the Housing Department and sold or rented under this Subtitle;

(ii) Is offered for a maximum sales price based on number of bedrooms, to be determined by the Housing Department by:

1. First, calculating the amount of monthly income available for mortgage principle and interest by using the formula: (median income for three person household) x (target income range) x (portion of household income available for housing) / (12 months) – (property taxes) - (hazard insurance);

2. Second, calculating a monthly payment for a thirty (30) year term mortgage at market interest rate, ensuring that the monthly payment is less than or equal to the calculation in (1).

(iii) The sales price of a which shall be recalculated each year by the Housing Department by taking the maximum bases prices and adjusting them up or down according to changes in the CPI;

(iv) Is offered for a monthly rental price of:

1. 100% of HUD’s fair market rents if the landlord pays all utilities (heat, water, sewer, electric, and trash); or

2. 80% of HUD's fair market rents if the landlord does not pay all utilities (heat, water, sewer, electric, and trash).

(v) And, the monthly rental price of which shall be recalculated each year by the Housing Department based on HUD's recalculation of fair market rents.

(c) Applicability.

Compliance with the provisions of this Subtitle shall be required as a condition of approval for all residential development that:

(1) Is located within the following districts: E, SE, SR, UR, VC, NC, CMPD, TC, QMPD, GPRN, and SMPD.

(2) In growth areas, consists of twenty (20) or more lots; and outside of growth areas, consists of sixty (60) or more lots; and

(3) An applicant may not avoid this Subtitle by submitting phasing new development in increments below the thresholds above, the first being after the effective date of this Subtitle. An applicant may submit a request for residential development below the thresholds set forth above, but the applicant must agree in writing that when unit thresholds are reached, the applicant will meet the requirements of this Subtitle.

(d) Compliance

(1) At least 10% of the units in a residential development subject to this Subtitle shall be designated as MPDUs and meet all requirements of this Subtitle.

(2) Compliance with this Section may be achieved through either of or a combination of the following options:

(i) Constructing MPDUs.

Compliance may be achieved by constructing MPDUs on the site where the residential development is to occur or off the site where the residential development is to occur if the Planning Commission has approved the off-site location based on the location's access to public amenities and compatibility of surrounding uses and densities.

(ii) Paying fees in lieu of constructing MPDUs.

1. Compliance with this Section may be achieved by contributing to the Scattered Site Housing Fund where the Planning Commission finds that:

i. In the project or subdivision originally proposed by the applicant, an indivisible package of residents and facilities to be provided to all households would cost the occupants of the MPDUs so much that it is likely to make the MPDUs effectively unaffordable by eligible persons; or

ii. The dedication required by subparagraph (i) above is unsuitable or impracticable due to size, topography, drainage, site configuration, or other physical site characteristic; and

iii. The public benefits of paying a fee outweigh the benefits of constructing MPDUs in each subdivision throughout the County, and acceptance of applicant's fee in lieu will achieve the objective of providing a broad range of housing opportunities throughout the County.

2. The amount of fees due under this Section shall be calculated yearly by subtracting the maximum allowable price of an MPDU from the median price of the same size unit constructed in the County in the preceding year.

3. Payment of fees in lieu shall be made to the County according to the time schedule below.

Percentage of Market Rate Units	Percentage of Payment in Lieu
Up to 30%	None required
30% plus 1 unit	At least 10%
Up to 50%	At least 30%
Up to 75%	At least 50%
75% plus 1 unit	At least 70%
Up to 90%	100%

(iii) Donation of land to the County.

1. The County may accept donations of land in fee simple, on or off-site, that the Housing Department determines are suitable for the construction of MPDUs. The value of donated land shall be equal to or be greater than the value of the fee in lieu payment required by this Section. The Housing Department may require, prior to accepting land as satisfaction of the requirements of this Subtitle, that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of equivalent value. The land shall be donated into the Scattered Site Housing Fund.

(3) Compliance with this Subtitle also shall require that:

(i) The applicant provides covenants, recorded among the land records of the County, that states that the unit will continue to be a MPDU for the control period, in compliance with this Subtitle; and

(ii) The applicant sign a promissory form, which includes a calculation of MPDUs required to comply with this Subtitle, in which the applicant agrees to meet the requirements of this Subtitle. This form shall be kept on file at the Planning Department.

(e) Adjustments for MPDU Qualification.

If the Planning Commission finds that conditions of the design, construction, pricing, or amenity package of an MPDU project will lessen the ability of eligible persons to afford the MPDUs, the Planning Commission, may eliminate or modify those conditions or other costs that reduce the affordability of the MPDUs.

(f) Construction of MPDUs.

(1) Integration.

(i) MPDUs within market rate developments shall be integrated with the overall development plan and shall be generally consistent in exterior design and appearance with other units in the proposed development. The following criteria may be considered in determining whether the requirements of this paragraph have been met.

1. Whether there are existing or proposed physical barriers between market rate units and MPDUs.

2. Whether the MPDUs are located within reasonable proximity of proposed market-rate units.

3. Whether the MPDUs of a particular housing type (e.g., multi-family or single-family) are reasonably blended with market rate units of the same type.

(ii) Consistent with the purpose and intent of this Subpart, the Planning Commission may authorize an applicant to increase the sale price of a MPDU by no more than 10%. However, no increase shall be allowed unless the Planning Commission finds, in exceptional cases, that a price increase is necessary to achieve compliance with paragraph (1) above.

(2) Phasing.

Where feasible, MPDUs shall be provided coincident to the development of market-rate units, but in no event shall the development of MPDUs be delayed beyond the schedule below.

Percentage of Market Rate Units	Percentage of MPDUs
Up to 30%	None required
30% plus 1 unit	At least 10%
Up to 50%	At least 30%
Up to 75%	At least 50%
75% plus 1 unit	At least 70%
Up to 90%	100%

(g) Certificate of Eligibility.

(1) The Housing Department shall grant a certificate of eligibility to any person who meets the definition of “eligible person.”

(2) The Housing Department shall monitor annually occupants of rental MPDUs created pursuant to this Section. Where the Housing Department determines that an occupant no longer qualify as an eligible person, the Housing Department shall notify the person that the rental MPDU shall be vacated within one year of notification in order to make the unit available to an eligible person.

(h) Payment of homeowners association fees.

Residents of an MPDU shall pay an equal share of homeowners’ association fees or similar costs as non-MPDU units.

(i) Procedures for Sale or Rental of MPDUs.

(1) Every MPDU required under this Subtitle must be rented or sold to eligible persons to be used for his or her own residence.

(2) Before offering any MPDUs for sale or rent, the applicant must notify the Housing Department of the proposed offering and the date on which the applicant will be ready to begin marketing to eligible persons. The notice must include:

(i) Whether the units will be sold or rented;

(ii) The number of units offered;

(iii) The number of bedrooms;

(iv) The floor area for each unit type;

(v) A description of the amenities offered in each unit and a statement of the availability of each unit for sale or rent;

(vi) A vicinity map of the offering; and

(vii) Other information or documents as the Housing Director finds necessary to determine compliance with this Section.

(3) The Housing Department will maintain a list of eligible persons and must notify eligible persons by mail and by newspaper prior to the start of the marketing period.

(4) An applicant must not sell or lease any unit without first obtaining a certificate of eligibility issued by the Housing Department from the buyer or lessee, unless the buyer is the Housing Department. A copy of each certificate must be maintained on file by the Housing Department.

(5) Ninety (90) days after the start of the marketing period, the Housing Department may purchase an MPDU if no eligible person has entered into a purchase agreement or contracted to buy that MPDU. The Housing Department shall only rent or sell the MPDU to an eligible person.

(6) Every eligible person buying or renting an MPDU must occupy the unit as his or her primary residence during the control period. If the Housing Director finds that an owner of an MPDU is not occupying the dwelling unit as their primary residence, the Housing Director may assess a monthly fee equal to the HUD fair market rent for the MPDU.

(7) An owner of an MPDU may not rent the unit unless the renter is an eligible person, and the rental is approved in writing by the Housing Department at the beginning of each rental period.

(8) Any rent obtained for a MPDU that is rented to an ineligible person must be paid into the Scattered Site Housing Fund by the owner within 90 days after the Housing Director notifies the owner of the rental violation. Any amount unpaid after 90 days is grounds for the Housing Director to assess a monthly fee that is equal to the HUD fair market rent for the MPDU.

(j) Restrictions on Resale.

(1) During the control period, no MPDU shall be resold except as an MPDU as herein defined.

(2) A person who rents a MPDU and lawfully occupies it when the unit is offered for sale may buy the dwelling unit, regardless of the person's income at the time of sale, if that person was an eligible person when they first rented the unit.

(k) Restriction on Rent.

During the control period, no MPDU shall be rented except as an MPDU herein defined.

(l) Density Bonus.

(1) An applicant who complies with this Subtitle shall be entitled to a density bonus of 10% above the maximum amount permitted in a zone, provided that the development complies with the provisions of Title 18.

PART VII. ADMINISTRATION, ENFORCEMENT, AND SPECIAL PROCEDURES

Subpart 1. General and Administrative Provisions

18-1-109 Planning Commission.

(a) Establishment.

The Queen Anne's County Planning Commission is hereby established.

(b) Powers.

The Commission shall have the powers and duties provided in Article 66B of the Annotated Code of Maryland and in this Subtitle.

(c) Membership.

(1) The Commission shall consist of seven (7) members.

(2) Members shall be appointed and vacancies shall be filled by the County Commissioners in the manner provided in Article 66B of the Annotated Code of Maryland.

(3) One (1) member of the County Commissioners may serve as an ex-officio member of the Planning Commission for a period concurrent with the Commissioner's term.

(d) Organization.

(1) The Commission shall select a Chairman, a Vice Chairman, and a Secretary, who shall serve for a term of one (1) year.

(2) The Chairman shall preside at all meetings of the Commission and perform such other duties as may be provided in this part.

(3) In the absence of the Chairman, the Vice Chairman shall perform the duties of the Chairman.

(4) The Commission may:

(i) Create and fill other offices as it may determine; and

(ii) Designate an employee of the Department to assist the Secretary in recording minutes of meetings and maintaining the records of the Commission.

(e) Meetings.

(1) The Commission shall:

(i) Hold at least one (1) regular meeting each month;

(ii) Adopt rules for transactions of business; and

(iii) Keep a record of its resolutions, transactions, findings, and determinations that shall be made available to the public.

(f) Compensation.

The members of the Commission shall receive compensation as provided in the budget adopted by the County Commissioners.

18-1-110 Department of Planning and Zoning.

(a) Establishment.

The Department of Planning and Zoning is hereby established.

(b) Staff.

(1) The County Commissioners shall appoint a Planning Director and other professional, enforcement, secretarial, and clerical staff and other employees necessary for the administration and enforcement of this Subtitle.

(2) All employees shall receive compensation as provided by the County Commissioners.

18-1-111 Same—Planning Director.

(a) Appointment.

(1) The County Commissioners shall appoint the Planning Director.

(2) The Planning Director shall:

(i) Be the chief executive and administrative officer of the Department;

(ii) Have at least a master's degree in planning or a related field; and

(iii) Serve at the pleasure of the County Commissioners.

(b) Duties.

The Planning Director shall:

(1) Perform all duties assigned to the Planning Director by this Subtitle;

(2) Administer and enforce the provisions of this Subtitle;

(3) Direct and supervise the activities of all employees of the Department;

(4) Attend all meetings of the Planning Commission and provide reports concerning the activities of the Department, in such detail as the Planning Commission may require; and

(5) Maintain a constant review of the operation of this Subtitle and make recommendations to the Planning Commission and the County Commissioners as the Planning Director believes are necessary or advisable to:

(i) Accommodate changed circumstances;

(ii) Improve the administration;

- (iii) More adequately carry out the purposes of this Subtitle; or
- (iv) Otherwise further good planning and zoning practices in the County.

(c) Authority.

(1) The Planning Director:

- (i) Shall have the authority conferred by this Subtitle; and
- (ii) May adopt rules, procedures, and forms reasonably necessary to exercise that authority or perform the Planning Director's duties.

(2) As appropriate, the Planning Director may:

- (i) Assign duties to any employee of the Department;
- (ii) Delegate any authority to the Deputy Planning Director;
- (iii) Delegate authority to the Zoning Administrator with respect to particular aspects of the provisions of this Subtitle relating to the issuance and enforcement of zoning approval under Subtitle 1, Part VII, Subpart 2;
- (iv) Delegate to any professional employee any authority that is within the scope of that employee's expertise; and
- (v) Delegate authority with respect to enforcement to any inspector or other employee to whom duties of enforcement are assigned.

18-1-112 Same—Deputy Planning Director.

(a) Appointment.

- (1) The County Commissioners may appoint a Deputy Planning Director.
- (2) The Deputy Planning Director shall:
 - (i) Have at least a master's degree in planning or a related field; and
 - (ii) Serve at the pleasure of the County Commissioners.

(b) Duties and authority.

- (1) The Deputy Planning Director shall perform the duties and exercise the authority assigned by the Planning Director.
- (2) In the absence of the Planning Director, the Deputy Planning Director shall have all duties and authority of the Planning Director.

18-1-113 Same—Zoning Administrator.

(a) Appointment.

- (1) The County Commissioners may appoint a Zoning Administrator.
- (2) The Zoning Administrator shall be classified as a merit employee.

(b) Duties and authority.

Subject to the general direction and supervision of the Planning Director, the Zoning Administrator shall:

- (1) Direct and supervise the daily activities of the enforcement, secretarial, and clerical employees of the Department; and
- (2) Perform such other duties and exercise such authority as may be assigned by the Planning Director.

18-1-114 Board of Appeals.

(a) Establishment.

The Board of Appeals of Queen Anne's County is hereby established.

(b) Powers.

The Board shall have the powers and duties provided in Article 66B of the Annotated Code of Maryland and in this Subtitle.

(c) Membership.

- (1) The Board shall consist of three (3) members and one (1) alternate member, all of whom shall be appointed by the County Commissioners.
- (2) The alternate member shall sit as a member of the Board in the absence of any regular member.
- (3) In cases where the alternate member is or will be absent, the County Commissioners may designate a temporary alternate.
- (4) Members and alternates shall be appointed and vacancies shall be filled by the County Commissioners in the manner provided in Article 66B of the Annotated Code of Maryland.

(d) Organization.

(1) The Board shall select a Chairman and a Vice Chairman, who shall serve for terms of three (3) years.

(2) The Chairman shall preside at all meetings of the Board.

(3) In the absence of the Chairman, the Vice Chairman shall perform the duties of the Chairman.

(4) In the absence of both the Chairman and the Vice Chairman, the member and alternates present shall select an Acting Chairman.

(e) Records.

The Board may designate an employee of the Department of Planning and Zoning to record the proceedings and maintain the records of the Board.

(f) Compensation.

The members, alternate member, and temporary alternate members of the Board shall receive compensation as provided in the budget adopted by the County Commissioners.

18-1-115 Same—Powers.

(a) In general.

Subject to the provisions of this Subpart, the Board shall have the following powers with respect to matters arising under Article 66B of the Annotated Code of Maryland or this Subtitle:

(1) The power to hear and decide appeals where it is alleged that:

(i) There is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of article 66b of the annotated code of Maryland or this Subtitle; or

(ii) There is no error in the order, requirement, decision, or determination, but a variance from the literal enforcement of this Subtitle should be authorized in accordance with the provisions of this Subpart; and

(2) The power to hear and decide applications for conditional uses, as provided in this Part.

(b) Rules.

(1) The Board may adopt and from time to time amend and supplement rules, consistent with the provisions of Article 66B of the Annotated Code of Maryland and this Subtitle, relating to:

(i) The form of notices of appeal and applications for conditional use;

(ii) The notice of meetings and hearings; and

(iii) The conduct of hearings and meetings.

(2) The rules of the Board dealing with such matters that are in effect at the time when this Subtitle is adopted shall continue in force until new rules are adopted by the Board.

(c) Assistance.

(1) The Board shall have the power to call upon any employee of the Department or any other County department, official, or employee to assist the Board in the performance of its duties.

(2) Each such department, official, or employee shall comply with all reasonable requests of the Board.

18-1-116 Same—Meetings.

(a) When held.

Meetings of The Board shall be held at the call of the Chairman and at such other times as may be provided by the rules adopted by the Board.

(b) Conduct of meetings.

All meetings of the Board shall be open to the public.

(c) Transcript.

(1) The Board shall provide a transcript of all proceedings.

(2) The transcript shall:

(i) Reflect the vote of each member or alternate upon each question or, as the case may be, the fact that the member was absent or failed to vote;

(ii) Be immediately filed in the office of the board ; and

(iii) Be a public record.

(d) Witnesses and oaths.

The Chairman or, if absent, the Vice Chairman or Acting Chairman shall administer oaths and may compel the attendance of witnesses.

18-1-117 Same—Hearings.

(a) When held.

(1) All hearings with respect to appeals, variances, or applications for conditional use shall be held at a meeting of the Board.

(2) The rules of the Board shall provide that hearings be held promptly after the filing of an appeal or an application for conditional use.

(b) Notice.

(1) The rules of the Board shall provide for reasonable notice to the public and to the person who filed the appeal or application for a conditional use.

(2) At a minimum, the notice shall be:

(i) Posted on the property involved with the time, place, and purpose of the hearing at least fourteen (14) days prior to the date of the hearing; and

(ii) Published in at least one (1) newspaper of general circulation in the county once a week for at least two (2) successive weeks prior to the date of the hearing, provided that the last insertion of the newspaper notice may not be more than eight (8) days or less than two (2) days prior to the date of the hearing.

(c) Appearance.

Any party may appear in person or by agent or attorney at any hearing.

(d) Time for decision.

The Board shall decide any matter submitted within a reasonable time.

18-1-118 Same—Effect of Final Decision.

(a) In general.

A final decision of the Board may not:

(1) Authorize or qualify any land, use, or structure not involved in the decision, including lands, uses, and structures adjacent to that involved in the decision, for the same or any other special treatment under the provisions of this Subtitle; or

(2) With respect to any land, use, or structure involved in the decision:

(i) Change its use classification under this Subtitle;

(ii) Create any nonconforming use or status; or

(iii) Authorize any other change or use for which an appeal or application is required under this Subtitle.

(b) Denial.

If the Board does not grant the relief or decision sought by an appeal or application, an appeal or application involving the same property and substantially the same issues may not be filed prior to one (1) year after the disapproval.

(c) Withdrawal.

If any notice of hearing has been published with respect to any appeal or application and the appellant or applicant thereafter withdraws the appeal or application prior to the hearing or after hearing and prior to the decision by the Board, an appeal or application involving the same property and substantially the same issues may not be filed prior to six (6) months after the date of the withdrawal.

(d) Effect of section.

Nothing in this Section shall be construed to authorize any subsequent appeal or application that would not be allowed by any general rule of law or construction relating to the nature and effect of prior determinations by an administrative agency.

18-1-119 Appeals.

(a) Right of appeal.

(1) An appeal may be taken by any person:

(i) aggrieved by any decision of the Planning Commission, Planning Director or any other employee of the Department; or

(ii) seeking a variance from the literal enforcement of this subtitle.

(2) Prior to filing an appeal involving a variance, the person shall, under the procedures set forth in section 18-1-147 of this subtitle, obtain a determination by the Planning Director or other employee authorized to make the determination that the use involved is not otherwise permissible under the terms of this subtitle.

(3) As used in this subsection, "person" includes any officer, department, board, or bureau of the County.

(b) Time for appeal.

(1) Notice of appeal from an administrative decision shall be filed within a reasonable time after the decision from which the appeal is taken, as prescribed by the rules of the Board of Appeals.

(2) Unless otherwise prescribed by the rules, an appeal shall be taken within 30 days after the date of the formal written decision from which the appeal is taken.

(c) Filing.

(1) An appeal shall be taken by filing a notice of appeal with:

(i) the Planning Director; and

(ii) the Board of Appeals.

(2) The notice of appeal shall be accompanied by such fee as may be prescribed by the County Commissioners.

(d) Contents.

A notice of appeal shall:

(1) contain the name, address, and telephone number of the appellant and a description sufficient to identify the property involved by reference to the zoning maps; and

(2) specify the grounds for the appeal and the relief sought.

(e) Record.

After receiving a notice of appeal, the Planning Director or other employee of the Department of Planning and Zoning with whom it is filed shall transmit to the Board all papers constituting the record upon which the action appealed from was taken.

(f) Effect of appeal.

An appeal to the Board of Appeals stays all proceedings with respect to the action from which the appeal is taken, except when a restraining order is obtained as authorized by Article 66B of the Annotated Code of Maryland.

18-1-120 Powers with Respect to Appeals.

(a) In general.

In deciding any appeal from an administrative decision, the Board shall have all powers of the person from whom the appeal is taken and may make such order, requirement, decision, or determination as ought to be made in conformity with Article 66B of the Annotated Code of Maryland and this Subtitle.

(b) Nonvariance appeals.

In an appeal that does not involve a variance, the Board may reverse, affirm, or modify, wholly or partly, the order, requirement, decision, or determination from which the appeal is taken.

18-1-121 Limitations with Respect to Variance.

(a) In general.

The Board shall grant a variance only with respect to matters involving the modification of the density, bulk, or area requirements of this Subtitle, or of the requirement set forth in Section 18-1-95(b) of this Subtitle. No variance is required where a proposed modification will not cause an existing violation to increase.

(b) Circumstances.

A variance may not be granted unless the Board specifically finds that:

- (1) Literal enforcement of this Subtitle would result in unnecessary hardship or practical difficulty as the result of specified conditions;
- (2) Those conditions are peculiar to the property involved;
- (3) Those conditions are not the result of any action taken by the appellant;
- (4) The variance will not be contrary to the public interest; and
- (5) Alternatives proving variance is required.

(c) Considerations.

Among all other factors that must be considered with respect to the requirements of this Section, the Board shall consider:

- (1) The ability to use the property for any reasonable purpose, whether or not such purpose is desired by the appellant, in the absence of the proposed variance;
- (2) The degree to which the proposed variance will affect adjacent property;
- (3) The impact of the proposed variance upon the resource protection provisions of part iv, Subpart 2 of this Subtitle; and
- (4) The degree to which the situation might be more properly addressed by amending this Subtitle.

18-1-122 Decisions with Respect to Variance.

(a) Extent of approval.

The Board may not authorize a variance that modifies any requirement of this Subtitle to a degree greater than that minimally required to ameliorate the circumstances referred to in Section 18-1-121 of this Subtitle. In any decision authorizing a variance, the Board shall specifically state the reasons for its finding that the variance does not exceed that minimum.

(b) Density.

Except where extraordinary circumstances of extreme hardship are found to be present and specified in its decision, the Board may not authorize any variance that would:

- (1) Increase the number of dwelling units otherwise allowed by this Subtitle by more than one;
- (2) Increase the otherwise permitted FAR by more than 10%; or
- (3) Allow the use of a lot that is more than 10% smaller than otherwise allowed.

(c) Conditions.

(1) When authorizing a variance, the Board may attach such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest and in order to further the purposes of this Subtitle.

(2) The conditions may include the requirement of covenants and/or guarantees as may be deemed necessary to insure that the requirements of the authorization will be fulfilled.

(d) Natural resources.

If the natural resource requirements set forth in Subtitle 1, Part IV, Subpart 2 are adversely affected, the Board shall give special consideration to the imposition of conditions that involve mitigation of damage to those resources.

18-1-123 Conditional uses.

(a) Procedure.

Applications for conditional uses shall be filed, processed, heard, and determined in accordance with the provisions of Part V, Subpart 2 of this Subtitle.

(b) Requirements.

In addition to any requirements of Part V, Subpart 2 of this Subtitle, any approval of a conditional use must be based upon findings, expressly stated in the approval, that:

- (1) The conditions concerning that conditional use as detailed in this Subtitle exist;
- (2) The conditional use conforms to the Comprehensive Plan; and
- (3) The conditional use is compatible with the existing neighborhood.

Subpart 2. Nonconforming Uses

18-1-124 Nonconforming uses—Generally.

(a) Authorized use.

(1) Except as otherwise provided in this Subpart, any nonconforming lot, use, sign, or structure lawfully existing on the effective date of this Subtitle or subsequent amendment may be continued so long as it remains otherwise lawful.

(2) All nonconforming uses:

(i) Shall be encouraged to convert to conformity wherever possible; and

(ii) Shall be required to convert to conforming status as required by this Subpart.

(b) Other requirements.

(1) Nothing in this Subpart shall be construed to affect in any manner any requirements that exist independent of this Subtitle, such as requirements for approval by the County Health Officer as to water supply and disposal of sanitary wastes.

(2) In the case of any conflict between other requirements and the provisions of this Subpart, the more restrictive shall control.

18-1-125 Evidence of Nonconforming Status.

(a) Burden of proof.

The burden of establishing that any lot, use, sign, or structure is a nonconforming lot, use, sign, or structure shall, in all cases, be upon the owner of the land.

(b) Status certificate.

Upon written request from an owner or the owner's agent, the Planning Director shall issue a certificate certifying a lot, use, sign, building, or other improvement as legally nonconforming:

(1) After the Planning Director has inspected the lot, use, sign, building, or other improvement and determined the nature and extent of any nonconformity with the provisions of this Subtitle; and

(2) Upon proof that:

(i) The lot, use, sign, building, or other improvement was existing lawfully at the time of the adoption of this Subtitle; and

(ii) Any nonconformity has not been terminated or illegally changed or altered since the adoption of this Subtitle.

(c) Register.

The Planning Director shall maintain a register of all status certificates issued pursuant to Subsection (b) of this Section.

18-1-126 Nonconforming Lots—Generally.

(a) Authorized uses.

Subject to the requirements of this Subpart, a nonconforming lot may be used for any principal use allowed in the zoning district in which the lot is located.

(b) Variance.

Except as provided in Section 18-1-127 of this Subtitle for certain residential lots, any performance standard of this Subtitle that cannot be satisfied by a nonconforming lot shall be established by the Board upon application by the owner for a variance.

18-1-127 Same—Single-Family Lots.

(a) Lots affected.

This Section applies only to the location of a single-family detached dwelling on a nonconforming lot in a district where single-family residential uses are allowed. If the nonconforming lot on which the dwelling is to be located does not meet an area, width, setback, or yard requirement established elsewhere in this Subtitle, that requirement shall be modified to the extent authorized by the following provisions of this Section.

(b) Open space.

To the extent that the lot is physically unable to provide the open space required elsewhere in this Subtitle, the open space shall be provided insofar as possible as determined by the Planning Director or Zoning Administrator.

(c) Area.

If neither public water supply nor public sanitary sewer is accessible and where an acceptable community water supply and sewage system is not provided, the minimum lot area shall be that required by the Health Department.

(d) Width.

Unless both a public or approved community water supply and a public or approved community sanitary sewer are to be provided, the minimum lot width shall be that required by the Health Department.

(e) Setbacks.

Subject to any further modification authorized by the other provisions of this Section, setbacks shall comply with setbacks for the NC district that is closest to the nonconforming lot in size.

(f) Front yards.

(1) If the right-of-way of the road on which the lot fronts is less than fifty (50) feet wide, the depth of the front yard shall be the depth required for the zoning district plus twenty-five (25) feet, measured from the centerline of the road.

(2) If the average depth of at least two (2) existing front yards on lots within two hundred (200) feet of the centerline of the lot in question and within the same block is less or greater than the least front yard depth otherwise required by this Subtitle, the front yard depth shall be the greater of:

(i) The average depth of the existing front yards described above;

(ii) The average depth of the existing front yards on the two (2) lots immediately adjoining or, in the case of a corner lot, the depth of the front yard on the lot immediately adjoining; or

(iii) The distance from the centerline of the adjoining road as set forth in paragraph (1) of this Subsection.

(3) Notwithstanding paragraphs (1) and (2) of this Subsection, the depth of a front yard shall be at least ten (10) feet but need not exceed thirty-five (35) feet.

(g) Side yards.

(1) The sum of the side yard widths need not exceed 30% of the width of the lot, but in no case shall any one side yard be less than 10% of the width of the lot.

(2) The side yard width may be varied where the side wall of a building is not parallel with the side lot line or is broken or otherwise irregular. In that case, the average width of the side yard may not be less than the otherwise required least width, but the side yard may not be narrower at any point than the greater of:

(i) One-half ($\frac{1}{2}$) the otherwise required least width; or

(ii) Three (3) feet.

(3) If a side yard along the side street lot line of a corner lot abuts in the rear, either directly or across an alley, the side lot line of another lot in a district in which residences are allowed, then the side yard shall have a width of not less than one-half (½) the required depth of the front yard on the other lot fronting on the side street.

(4) Width of side yard.

(i) Upon proper request for a variance, the width of one (1) side yard may be reduced by the Board of the Appeals to a width of not less than three (3) feet, provided that:

1. The sum of the widths of the two (2) side yards is not less than the required minimum; and

2. The distance between the proposed dwelling and another dwelling, existing or proposed, on an adjacent lot is not less than the required minimum sum of the width of the two (2) side yards.

(ii) A reduction may be authorized only when the Board finds it to be warranted by the location of existing buildings or conducive to the desirable development of two (2) or more lots.

(h) Rear yards.

The depth of the rear yard need not exceed the greater of:

(1) 20% of the depth of the lot; or

(2) Ten (10) feet.

18-1-128 Nonconforming Uses—Change.

(a) In general.

A nonconforming use may not be changed to any use other than a use allowed in the zoning district in which it is located, except as provided in this Subpart.

(b) Extraction and disposal uses.

Nonconforming extraction or disposal uses may not be expanded in any manner. A nonconforming extraction use may not be changed to a nonconforming disposal use or vice versa.

(c) Relocation.

A nonconforming use, sign, or structure may not be moved, in whole or in part, for any distance whatsoever to any other location on the same or any other lot unless the entire lot and use, sign, or structure shall thereafter conform to the regulations for the zoning district in which it is located after being moved.

18-1-129 Same—Alteration.

(a) In general.

A nonconforming use or structure may not be enlarged, expanded, or extended, unless the alteration:

(1) Will bring the structure and all uses into full compliance with all requirements of this Subtitle; and

(2) Is expressly allowed by the provisions set forth in this Section.

(b) Nonconforming building.

A building that is not used for any nonconforming use and is a nonconforming structure solely because it does not meet the setback requirements of this Subtitle may be enlarged, expanded, or extended to the extent permitted in the district in which it is located if:

(1) The enlargement, expansion, or extension meets all setback requirements of this Subtitle; and

(2) Any required site plan approval is given in accordance with Subpart 4 of this Part.

(c) Nonconforming lot.

A single-family detached dwelling that is located on a nonconforming lot in a district where single-family residential uses are allowed may be enlarged, expanded, or extended to the extent authorized by Section 18-1-127 of this Subtitle with respect to the initial construction of a dwelling on the nonconforming lot.

(d) Nonconforming residential use.

(1) A single-family detached dwelling that is located in a district where single-family residential uses are not allowed may be enlarged, expanded, or extended to the extent that would be allowed on a lot in the neighborhood conservation (NC) district that is closest in size to the lot on which the dwelling is located.

(2) If the dwelling does not meet the setback requirements of the NC district, the dwelling may be enlarged, expanded, or extended in accordance with this Subsection if the enlargement, expansion, or extension itself meets those setback requirements.

(3) Residential accessory structures may also be located on such lots in accordance with the requirements of Sections 18-1-41 through 18-1-51 of this Subtitle.

(e) Limitation.

Nothing in this Section shall be construed to allow any enlargement, expansion, or extension that would create or involve:

(1) Any new, different or additional nonconforming use or status with respect to the dwelling or the lot on which it is located; or

(2) The enlargement, expansion or extension of any nonconforming use except as provided in Subsection (d) of this Section with respect to certain single-family detached dwellings.

(f) Exceptions.

This Section does not apply to:

(1) The strengthening or restoration to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares the structure to be unsafe and orders its restoration to a safe condition, provided that the restoration is not otherwise in violation of any other provisions of this Subpart; or

(2) Normal maintenance and incidental repair of a nonconforming use that does not violate any other provision of this Subpart.

18-1-130 Same—Termination.

(a) Damage, destruction or change of use.

In the event that any nonconforming use, sign or structure is destroyed by any means to the extent of more than 60% of the cost of replacement of the use, sign or structure newly reconstructed, or any nonconforming use, sign or structure is changed to a conforming use or another nonconforming use, the sign, structure or use may not be rebuilt, restored or reoccupied for any purpose unless it shall thereafter conform to all requirements of this Subtitle.

Poultry houses and associated structures are exempt from the provisions of this Section; however, the repair or replacement of a nonconforming poultry house or associated structure shall not increase the setback nonconformity which existed prior to the repair or replacement.

(b) Modification.

(1) Whenever a nonconforming status is the result of signs, exterior lighting, landscaping, buffering or parking that do not comply with all requirements of this Subtitle, upon application for site plan or amendment of any site plan, conditional use or subdivision approval related to the subject property, the nonconformity shall, as a precondition to issuance of that approval, be required to comply fully with all such requirements to the extent possible.

(2) Whenever a non-conforming status is the result of signs that do not comply with all requirements of this Subtitle, upon application for site plan or amendment of any site plan, conditional use or subdivision approval related to the subject property, the nonconformity shall, as a pre-condition to issuance of that approval, be required to comply fully with such requirements.

(c) Accessory uses.

A use, sign or structure that is accessory to a principal nonconforming use or structure may not continue after the principal use or structure has ceased or terminated, unless the accessory sign, use or structure shall thereafter conform to all requirements of this Subtitle.

(d) Extraction and disposal uses.

Nonconforming extraction or disposal uses may not renew operations once the use is discontinued for six (6) months or more.

(e) Lapse of use generally.

(1) Whenever a legal nonconforming use of any kind or character is discontinued, whether or not there is an intent to resume the use, for any reason for a continuous period of at least one (1) year or is discontinued, whether or not there is an intent to resume the use, for any reason for more than nine (9) months, whether or not continuous, in each year over a three (3)-year period, the nonconforming use may not be renewed or reactivated, and the status of the use as legally nonconforming shall be terminated.

(2) The Planning Director shall rescind any status certificates for the use issued pursuant to Section 18-1-125(b) of this Subtitle and shall remove the certificate from the register.

(3) After termination of a legal nonconforming use under this Subsection, any sign, building or other improvement on the property shall be used only in strict conformity with the provisions of this Subtitle.

(f) Nonconforming structures created as a result of government actions.

Whenever a legally existing use or structure is made nonconforming as a result of the exercise of eminent domain by any local, state or federal government or agency, the resulting nonconforming use or structure may be rebuilt, restored and reoccupied in the event the nonconforming use or structure is damaged or destroyed by natural disaster or fire to the extent of more than 60% of the cost of replacement, provided that:

(1) The new, rebuilt or restored structure does not increase any nonconformity existing at the time of the date of destruction; and

(2) The new use or structure meets all other requirements of this Subtitle.

18-1-131 Same—Signs.

(a) Nonconforming sign—Defined.

(1) In this Section “nonconforming sign” means a sign that does not comply with the standards contained in Part IV, Subpart 5 of this Subtitle or does not otherwise comply with all requirements of this Subtitle.

(2) A nonconforming sign is subject to the provisions in this Section, in addition to all other requirements of this Subpart.

(b) Change.

A nonconforming sign may not:

(1) Be changed, expanded or altered in any manner that would increase the degree of its nonconformity;

(2) Be structurally altered to prolong its useful life; or

(3) Be moved in whole or in part to any other location where it would be nonconforming.

(c) Discontinuance.

(1) If the use of any nonconforming sign or sign structure is discontinued for a period of ninety (90) consecutive days, regardless of any intent to resume or not to abandon such use, that nonconforming sign or sign structure shall be conclusively presumed to have been abandoned and shall not thereafter be reestablished except in full compliance with this Subtitle.

(2) For purposes of this Section, “discontinued” includes, for example:

(i) Having electricity discontinued for lighted signs;

(ii) Having no message;

(iii) Having a message involving only a past time or event;

(iv) Having a message that relates to a business or activity which no longer operates at the location included in the message; and

(v) Failure to repair damaged signs.

(3) “Discontinued” does not include any period during which a nonconforming sign or sign structure is not used for sign purposes as a result of government actions, strikes, material shortages or acts of God, and without any contributing fault by the nonconforming user.

(d) Damage or destruction.

Any nonconforming sign damaged or destroyed, by any means, to the extent of more than 60% of its replacement cost shall be terminated and may not be restored.

(e) Amortization of nonconforming signs.

(1) Subject to the provisions of this Subsection, a nonconforming sign that exceeds the height or size requirements of this Subtitle by more than 10% or that is nonconforming in some other way shall be altered or removed to comply with the provisions of this Subtitle.

(2) The following types of nonconforming signs or signs that are nonconforming in any of the following ways shall be altered or removed to comply with the provisions of this Subtitle:

(i) Auxiliary signs;

(ii) Portable signs or other temporary signs;

(iii) Flashing signs, animated signs and moving signs;

(iv) Signs that obstruct free ingress or egress from a fire escape, door, window or other required access way;

(v) Signs which by reason of size, location, coloring, or manner of illumination obstruct the vision of drivers or obstruct or detract from the visibility or effectiveness of any traffic sign or control device; and

(vi) Signs that advertise a business no longer conducted or a product no longer sold on the premises where the sign is located.

(3) Removal of any nonconforming off-premises sign (billboards) along federal aid highways is subject to applicable federal and State regulations.

Subpart 3. Required Permits and Certificates

18-1-132 General requirements.

(a) In general.

Any work or other activity for which a zoning approval is required by this Section may not be commenced or continued until:

(1) Proper zoning approval has been issued, showing that application has been made and that the building or part thereof and the proposed use thereof conform with the provisions of this Subtitle;

(2) If a building permit is required, the location has been staked and inspected, as required by this Subpart; and

(3) A building permit is required to locate, erect, or begin the construction, reconstruction, extension, conversion, or alteration of any structure.

(b) Final certificates.

A final certificate is required to:

(1) Use or allow the use of any land in any manner in which it was not used on the effective date of this Subtitle;

(2) Use or allow the use of any structure or part of a structure that is created, erected, constructed, reconstructed, extended, converted, or structurally altered, in whole or in part, after the effective date of this Subtitle;

(3) Change the use or allow the change of use of any land or structure after the effective date of this Subtitle; or

(4) Use or occupy a structure or part of a structure for which a building permit is required.

18-1-133 Requisites to zoning approval.

(a) Lot requirements.

A zoning approval may not be issued until the Planning Director determines that the land to which the approval will be applicable:

(1) Was a lot of record on the effective date of this Subtitle; or

(2) Is part of a subdivision that has been approved in accordance with Subtitle 1, Part VII, Subpart 5.

(b) Site plan requirements.

A zoning approval may not be issued until any final site plan approval required under Subtitle 1, Part VII, Subpart 4 has been obtained.

(c) Other requirements.

The requirements of this Subpart are in addition to any other requirements or approvals established by the Building Code and any other law, ordinance, rule, or regulation which now or hereafter establishes conditions requisite to any activity for which a zoning approval is required.

18-1-134 Burden of applicant.

An applicant for a zoning approval has the burden of furnishing all information required by this Subpart and establishing any fact necessary for the issuance of the zoning approval.

18-1-135 Application.

(a) Filing.

Application for a zoning approval shall be filed with the Planning Director by the owner of the lot to be affected or by the owner's attorney or agent.

(b) Contents.

The form of the application shall:

- (1) Be prescribed by the Planning Director;
- (2) Contain such information with regard to the lot and its neighboring lots, buildings, and uses as the Planning Director may deem necessary to determine and provide for the administration and enforcement of this Subtitle; and
- (3) Include at a minimum a drawing, approximately to scale, that shows:
 - (i) The size and location on the lot of every existing building and structure;
 - (ii) The location, outlines, and dimensions of any proposed building or structure and its driveways; and
 - (iii) The existing and intended use of the premises and of each building and other part thereof.

(c) Fee.

A filing fee, in an amount established by the County Commissioners, shall be paid at the time when the application is submitted.

18-1-136 Building Permits.

(a) Requirements.

The Planning Director may not issue a building permit until the Planning Director determines that:

- (1) The lot and the location of the proposed structures or other improvements on the lot have been staked out on the ground by the owner or the owner's agent and the locations staked have been inspected and approved by an authorized employee of the Department;
- (2) The proposed building, structure, premises, and uses conform with all requirements of this Subtitle;
- (3) All necessary approvals have been issued by other County, State, or federal agencies whose approval is required in connection with any activity authorized under the building permit, such approvals including those required by the Building Code, the County Health Officer, the County Roads Ordinance, the Sediment Control Ordinance, and the Storm water Management Ordinance;
- (4) If the permit involves any construction that is subject to the Building Code, the requirements of the Building Code with respect to issuance of a building permit have been fulfilled; and

(5) If the permit involves any development that is subject to the provisions of Subparts 3 or 4 of this Part, the necessary site plans and subdivision plans have been finally approved.

(b) Scope.

A building permit does not authorize the occupation or use of any land, building, structure, or sign until such time as a final certificate of occupancy has been issued.

18-1-137 Duration of Permit.

(a) In general.

A building permit shall expire and be void for all purposes at the earlier of:

(1) The time when a final certificate is issued;

(2) Six (6) months after the date the building permit is issued, if the construction for which it was issued has not been started; or

(3) If construction started within that time, six (6) months after construction (other than incidental work or work involving no substantial progress toward completion) is terminated.

(b) Effect of termination.

(1) If a building permit expires for any reason other than the issuance of a final certificate, all buildings or other improvements erected or made on the site since the issuance of the permit (including buildings or improvements, if any, not made in accordance with the permit) shall be removed and the site returned as nearly as possible to its condition prior to the time when the permit was issued.

(2) All removal and restoration required by this Subsection shall be made at the sole expense of the owner of the site.

(c) Extension.

(1) Upon written application by the owner, the Planning Director may in writing extend a building permit for a specified period, upon payment of such additional fee as may be prescribed by the County Commissioners.

(2) The cumulative length of all extensions under this Subsection may not be more than nine (9) months unless the Planning Director finds that:

(i) The building, structure, or other improvements have not been completed for reasons beyond the control of the owner and the owner's contractors and agents;

(ii) All requirements of this Subtitle then in effect will be satisfied; and

(iii) An original application would be approved for all work covered by the permit, if an original application were filed at that time.

18-1-138 Final Certificates.

(a) In general.

(1) A final certificate shall be issued under this Section after the Planning Director determines that all buildings, structures, signs, and proposed uses on the lot conform with the requirements of this Subtitle.

(2) Compliance relating to approved site plans is determined through the submittal of an “as built” by a registered civil engineer or professional land surveyor prior to issuance of a final certificate.

(b) Occupancy certificates.

(1) If building permit was issued and was subject to the Building Code, an occupancy certificate shall be issued in accordance with the requirements of the Building Code.

(2) Compliance relating to approved site plans is determined through the submittal of an “as built” by a registered civil engineer or professional land surveyor prior to issuance of an occupancy certificate.

(c) Zoning certificates.

The Planning Director shall issue a zoning certificate if:

(1) In circumstances where no building permit is required under the provisions of this Subpart such as where the purpose for which a certificate is sought involves only the use of land, buildings, or structures, the Planning Director determines after investigating the land, buildings, or structures that a zoning certificate is authorized by Subsection (a) of this Section; or

(2) In circumstances where a building permit was required but the work or activity involved was not subject to the Building Code, the Planning Director inspects the lot, buildings or other improvements, and thereafter determines that :

(i) All work has been completed as authorized and

(ii) That a zoning certificate is authorized by Subsection (a) of this Section.

(d) Notification by owner.

It is the responsibility of the owner to notify the Planning Director of the owner’s desire for any inspection necessary for a final approval.

- (e) Refusal to issue.

The Planning Director shall promptly notify the owner of any reasons for refusal to issue a zoning certificate and specify a time within which the matters referred to in the notice are to be completed.

Subpart 4. Site Plans

18-1-139 Applicability of Subpart.

- (a) When required.

(1) In accordance with Section 18-1-7, and except as provided in paragraph (2) of this Subsection, site plan approval is required with respect to all planned residential development and nonresidential development.

(2) Site plan approval is not required for the following development:

- (i) Farm buildings on a farm;
- (ii) Existing not for profit youth camps;

(iii) Conversion of an existing residential building to a commercial use, that does not involve the construction of additional floor area or outside storage; or conversion of a single-family dwelling to a duplex or multi-family unit; except that a concept plan shall be submitted which demonstrates adequate parking, landscaping, resource protection and stormwater management, as well as proper access to the property and compliance with the district regulations set forth in Subtitle 1, Part III, Subpart 2 of this Title;

(iv) Additions to existing nonresidential buildings that existed on April 9, 1987, if the addition and all previous additions to the building since April 9, 1987, cover 10% or less of the allowed floor area of the site in which the building is located; and

(v) Improvements not related to buildings that do not increase impervious surface area by more than 10% as it existed on April 9, 1987.

- (b) Effect of requirement.

If site plan approval is required by this Section, a permit or approval required under this Part may not be issued until a site plan has been finally approved in accordance with this Subpart.

- (c) Additional requirements.

(1) Additional site plan revision requirements are set forth for development proposed within the following districts: WVC, QRD, and QMPD.

(2) Where proposed development creates new impervious surface or relocation of existing floor area, additional stormwater management requirements may apply.

18-1-140 Burden of Applicant.

A person seeking review and approval of a site plan has the sole burden of supplying all information required by this Subpart and of establishing any fact necessary to any determination to be made under any provision of this Subpart.

18-1-141 Minor Site Plans.

(a) Minor site plan - Defined.

In this Section “minor site plan” means a site plan that involves only:

- (1) Planned residential developments with five (5) or less dwelling units.
- (2) Projects resulting in total floor area (existing or proposed) of equal to or less than 10,000 square feet.
- (3) Outside areas used for sales, storage, or display.
- (4) Approval of projects in any County business park.

(b) Procedure.

(1) A minor site plan, or an amendment to a major or minor site plan that does not change its character, as indicated in Section 18-1-157 of this Subtitle, may be approved and signed by the Planning Director with the concurrence of all appropriate agencies.

(2) In connection with any minor site plan, the Planning Director shall have those powers conferred upon the Planning Commission by this Subpart that are necessary to exercise that authority.

(3) A minor site plan may be referred to the Planning Commission for review under either of the following conditions:

- (i) The Planning Director determines that the project warrants review by the Planning Commission; or
- (ii) The applicant requests that the project be reviewed by the Planning Commission.

18-1-142 Optional preliminary review of site plan -- Application.

The purpose of Sections 18-1-142 through 18-1-147 of this Subpart is to provide a method for prompt determination of matters relating to a site plan that require consideration by the Planning Commission without subjecting an owner to the expense of furnishing information required under Section 18-1-148 through 18-1-150 of this Subpart.

18-1-143 Same -- Special Application.

(a) Special application.

Instead of filing a site plan, an applicant may file a special application and, if applicable, a concept plan for a preliminary determination by the Planning Commission with respect to matters specified in the application.

(b) Contents of special application.

The special application shall specifically identify the matters that the owner seeks to have determined and shall include any information that is relevant to a full and complete evaluation of those matters. The owner shall at all times have full responsibility for furnishing all such relevant information.

(c) Concept plan -- Required information.

(1) A plat shall contain a location map that indicates the location of the subdivision or development in relation to municipal boundaries and traffic facilities.

(2) A plat shall show the boundaries of the land that is the subject of the application and specify the location and position of the proposed development. A copy of the property deed must be indicated.

(3) A plat shall show the status of all land adjacent to the property that is the subject of the application.

(4) A plat shall indicate the characteristics of the land to be subdivided or developed and all resources that require protection in accordance with Subtitle 1, Part IV, Subpart 2 of this Subtitle.

(5) The plat shall indicate all existing and proposed structures, roads, parking areas and setbacks, including dimensions. Parking and buffer yards must be shown on the plat and must include all computations as to how numbers were arrived at.

(6) The plat should include an environmental review with comments by the Department of Natural Resources. Critical areas designation and delineation (IDA, LDA and RCA) and buffers must be indicated on the plat.

(7) The concept plan shall include preliminary information as required under the forest conservation ordinance, Subtitle 2 of this Title.

(8) The concept plan shall indicate the following site statistics:

(i) Minimum required landscape surface area for site;

(ii) Proposed landscape surface area;

- (iii) Maximum amount of allowable floor area;
- (iv) Floor area proposed;
- (v) Number of required parking spaces;
- (vi) Zoning of proposed and adjacent sites;
- (vii) Amount of allowable impervious area;
- (viii) Total site area, open space, net buildable area, and impervious area;
- (ix) Amount of proposed impervious area; and
- (x) Area of proposed roads for right-of-way.

(d) Determination by Planning Director.

If the Planning Director determines on the basis of the application that all information sufficient to evaluate the requested determination has been furnished, the Planning Director shall so inform the owner in writing. Alternatively, the Planning Director may require the applicant to submit additional information that the Planning Director deems necessary for a full and complete consideration of the requested determination. Until such information is furnished, an application is not complete under this Section.

18-1-144 Same—Preliminary Determination by Commission.

(a) Action by Commission.

(1) After submission of a complete special application, the Planning Commission shall consider the matters with respect to which a determination is sought.

(2) The Commission may require additional information that it deems necessary for a full and complete consideration of the requested determination and until such information is furnished, no determination shall be made.

(3) The Commission may attach any conditions to its determination that might be attached with respect to the matters under consideration in any final approval under Sections 18-1-152 through 18-1-156 of this Subtitle.

(b) Basis of determination.

A determination by the Commission under this Section shall be made:

(1) On the basis of the information submitted with respect to the matters referred to in the application; and

(2) On the assumption that, as to all matters not specifically referred to in the special application, the proposed concept plan fulfills all requirements of this Subtitle.

18-1-145 Same—Effect of Determination.

(a) Preliminary determination.

Any determination made by the Planning Commission under the provisions of Sections 18-1-142 through 18-1-147 of this Subtitle shall be considered as preliminary for all purposes. All matters involved in the preliminary determination are subject to reevaluation at the time when the complete site plan is submitted to the Planning Commission in accordance with Sections 18-1-152 through 18-1-156 of this Subtitle.

(b) Preliminary plan disregarded.

Nothing in this Section shall be construed to preclude the Commission from determining at the time the Commission considers the complete site plan that the preliminary determination should be disregarded or that different action is required because:

- (1) This Subtitle or other applicable law or regulation was subsequently amended;
- (2) The preliminary determination was made on the basis of insufficient or incomplete information;
- (3) The overall site plan or particular aspects of the overall site plan contains relevant factors not considered by the Planning Commission in making the preliminary determination; or
- (4) Conditions other than those referred to in the preliminary determination are necessary or desirable.

18-1-146 Same—Procedure After Determination.

Following a preliminary determination by the Planning Commission, the owner may file an application conforming to all requirements of Sections 18-1-148 through 18-1-150 of this Subtitle. In processing the application, full effect shall be given to the preliminary determination of the Planning Commission. However, the Planning Director or any agency making a report in accordance with Section 18-1-151 of this Subtitle may indicate in its report any objection to the preliminary determination and/or any suggestions for modification of that approval. The objections and suggestions shall be considered by the Planning Commission at the time of its review in accordance with Sections 18-1-152 through 18-1-156 of this Subtitle.

18-1-147 Same—Preliminary Determination of Variances.

(a) Scope.

(1) In this Section, “variance” refers to a modification of density, bulk, or area requirements of this Subtitle and those requirements set forth in Section 18-1-95(b) of this Subtitle.

(2) Nothing in this Section shall be construed to modify to any degree any provision of this Subtitle or other law that pertains to the criteria or procedure for considering or granting a variance.

(b) Purpose.

The purpose of this Section is to provide a method for prompt determination of matters that require a variance without subjecting an owner to the expense of furnishing information required under Sections 18-1-148 through 18-1-150 of this Subtitle.

(c) Special application.

Instead of first filing a site plan, an applicant may file a special application and, if applicable, a concept plan for a preliminary determination by the Planning Director that approval cannot be given until a variance has been granted.

(d) Contents of special application.

(1) The special application shall:

(i) Specifically identify the variance sought by the owner; and

(ii) Include any information that is necessary for a full and complete evaluation of the variance and its effect upon the proposed site plan.

(2) The applicant shall at all times have full responsibility for furnishing all relevant information.

(e) Concept plan—Required information.

(1) A plat shall contain a location map that indicates the location of the subdivision or development in relation to municipal boundaries and traffic facilities.

(2) A plat shall show the boundaries of the land that is the subject of the application and specify the location and position of the proposed development. A copy of the property deed must be indicated.

(3) A plat shall show the status of all land adjacent to the property that is the subject of the application.

(4) A plat shall indicate the characteristics of the land to be subdivided or developed and all resources that require protection in accordance with Subtitle 1, Part IV, Subpart 2.

(5) The plat shall indicate all existing and proposed structures, roads, parking areas, and setbacks including dimensions. Parking and buffer yards must be shown on the plat and must include all computations as to how numbers were arrived at.

(6) The plat should include an environmental review with comments by the Department of Natural Resources. Critical areas designation and delineation (IDA, LDA, and RCA) and buffers must be indicated on the plat.

(7) The concept plan shall include preliminary information as required under the forest conservation ordinance, Subtitle 2 of this Title.

(8) The concept plan shall indicate the following site statistics:

- (i) Minimum required landscape surface area for site;
- (ii) Proposed landscape surface area;
- (iii) Maximum amount allowable floor area;
- (iv) Floor area proposed;
- (v) Number of required parking spaces;
- (vi) Zoning of proposed and adjacent sites;
- (vii) Amount of allowable impervious area;
- (viii) Calculation of net buildable area;
- (ix) Amount of proposed impervious area; and
- (x) Area of proposed roads for rights-of-way.

(f) Procedures for variance review.

(1) The Department may offer a formal response to an application only after:

(i) A complete site plan or building permit application and relevant plans are submitted; or

(ii) A special application is submitted.

(2) Within ten (10) working days of receipt of a complete application, the Department shall notify the applicant in writing:

(i) Of whether the application cannot be approved unless a variance is granted;

(ii) Of relevant variances the department believes are necessary for project approval;

(iii) Of additional information it requests if the determinations set forth in subparagraphs (i) and (ii) of this paragraph cannot be made based on the information submitted; and

(iv) That the Department's comments are based entirely on the information submitted by the applicant.

(3) Formal variance appeal.

(i) Following receipt of the Department's written comments, the applicant may submit a formal variance appeal as prescribed by the Board to the Clerk to the Board.

(ii) The Clerk to the Board shall forward copies of the application to the Departments of Planning and Zoning, Public Works, and Environmental Health, the State Highway Administration, and the Critical Areas Commission, if applicable.

(4) Application review.

(i) The Planning Director shall assign the case to a staff member.

(ii) The designated staff member shall review the application and, based on the information submitted with the application, prepare a staff report as to staff's comments, concerns, and recommendations. Although the designated staff person may request that additional information be presented or that the application be amended, this request is not a requirement.

(iii) Within ten (10) working days, the staff report shall be forwarded to the Board and to the applicant.

(5) The Attorney for the Board is responsible for scheduling a hearing date. Once the hearing date has been posted, additional information may not be added to the applicant's file.

18-1-148 Application for Site Plan Approval.

(a) Contents.

(1) Application for approval of a site plan shall be filed with the Planning Director by the owner of the lot to be affected or by the owner's attorney or agent, together with the fee prescribed by the County Commissioners.

(2) The application shall be on a form prescribed by the Planning Director and be accompanied by the plat and other information referred to in this Section and Sections 18-1-149 and 18-1-150 of this Subtitle.

(3) No action shall be taken with respect to an application until the Planning Director determines that all required information has been submitted.

(b) Copies.

An application, site plan, or other information required to be furnished by this Subpart shall be accompanied by eleven (11) copies of that information. After preliminary review, additional copies may be required for submission to the Planning Commission.

(c) Scope of requirements.

If any provision of this Section or Sections 18-1-119 and 18-1-120 of this Subtitle requires information with respect to a physical feature or characteristic on or near the site, the provision shall be construed to mean that both existing and proposed features of that type are to be shown, with proper indication of whether each feature is existing or proposed.

(d) Other information.

In addition to the information specifically required by this Subpart, the Planning Commission or the Planning Director may at any time require in writing that the applicant furnish any other information that will be requisite to the issuance of a zoning approval under this Part if site plan approval is given.

18-1-149 Contents of Plat.

(a) Scale.

A site plan shall contain a plat, drawn to a scale of not less than one (1) inch equals one hundred (100) feet, that contains the information required by this Section. The Planning Director may authorize the use of a different scale if, in the Planning Director's opinion, the information required to be shown on the plat can be presented with equal clarity by the use of a different scale.

(b) General information.

The following general information shall be shown on the plat:

(1) A small location "key" map showing the tract and illustrating its relationship to the nearest major street intersection and adjacent streets;

(2) A north arrow oriented to the top of the page and bar scale of the drawings;

(3) A title block including:

(i) The name of the development;

(ii) The names and addresses of the persons shown as the record owners of the site as shown by the land records of the county;

(iii) The name of the developer and the developer's architect, professional land surveyor, or engineer;

(iv) The seal of the architect, professional land surveyor, or engineer; and

(v) The map, block, parcel/lot number;

(4) A separate block showing:

(i) The date of preparation of the plat first submitted under the provisions of this Subpart;

(ii) The dates of all subsequent revisions to the plat; and

(iii) A brief summary of the nature of each revision.

(c) Legend.

The plat shall contain a legend with the following information:

(1) The gross square footage of all buildings and structures;

(2) The present zoning of the site;

(3) The area, in square feet, of landscape surface area on the site not occupied by structures, paving, and other impervious surfaces;

(4) All plant types by name, plant quantities, and sizes used in landscaping; and

(5) With respect to nonresidential uses, the number of employees in the largest shift or, for places of assembly, the maximum capacity of the meeting or assembly space.

(d) Physical features.

The following information shall be graphically represented and identified, with further description as required:

(1) Property lines and right-of-way lines with metes, bounds, courses, and distances indicated;

(2) The ownership, use, and zoning classification of each adjoining property;

(3) Lines and dimensions of all easements, including off-site easements, that affect the site, together with the names of the record owner of each easement as shown by the land records of the county and a description of the facilities located or to be located within the easement;

(4) The location, size, and description of all natural resources as required under part IV, Subpart 2 of this Subtitle;

(5) The approximate location of all isolated trees having a trunk diameter of six (6) inches or more, and all tree masses;

(6) All facilities for protection of shorelines, as required under part IV, Subpart 2 of this Subtitle;

(7) All building restriction lines and buffer yards as required under this Subtitle for the entire site;

(8) With respect to planned developments, the location and area of each lot or building site within the site plan;

(9) The location, size, height, and yard area of all structures and other improvements, including buildings, parking and loading areas, roads, walkways, drainage structures, utility poles, fences, and retaining walls, and a general description of the use for which each building is intended;

(10) With respect to multiple family developments, the conceptual location and configuration of buildings, approximate locations of common ground areas, open space, major utility easements, and storm water retention areas;

(11) All exterior sign design, including location and size of both freestanding and wall signs and illumination techniques;

(12) The location of all exterior lighting, including the height and spacing of all lighting standards, as required under Section 18-1-85 of this Subtitle;

(13) The location of outside refuse collection areas and type of enclosure proposed to screen all refuse containers from public view;

(14) The location of any existing or proposed well and septic fields; and

(15) The location and size of any proposed or existing exterior outside storage and display of retail or wholesale merchandise.

(e) Traffic.

The following information shall be graphically represented and identified with respect to internal and peripheral vehicular circulation:

(1) Curb cuts required to provide ingress and egress to and from adjacent streets;

(2) Widths, including any proposed widening, of all adjacent streets and rights-of-way and the size and location of traffic islands and medians;

(3) Location and dimensions of any new easements and right-of-way dedications;

(4) All street entrances on the opposite side of any street adjacent to the site;

(5) Location of all parking spaces, driving aisles, and medians on the site;

(6) Location and dimensions of all curbs; and

(7) Location and size of spaces to be used for outdoor vehicular and equipment storage and the location and description of screening for the spaces.

(f) Drainage.

The following information shall be graphically represented and identified with respect to drainage:

(1) All ponds, lakes, basins, sinkholes, or other bodies of water and the proposed use of each (e.g. Recreational, retention, etc.);

(2) Storm sewers that will serve the site;

(3) The location of the sanitary sewer hookups and an indication of the sanitary sewer district or sewer company to serve the project;

(4) Major drainage facilities, such as bridges, culverts, channels, creeks, etc.; and

(5) The limits of the one hundred (100)-year floodplain zone.

(g) Site grading.

Contours of the site, referenced to U.S. Geological Survey data, and extending at least fifty (50) feet in each direction outside of the site shall be graphically represented. Existing contour lines shall be differentiated from proposed contour lines. Normally, contour lines shall be at two (2)-foot intervals. In cases of unusual topography, the plan should employ more descriptive contour intervals, varied frequency of contours, and/or spot elevations. The Planning Commission or the Planning Director may require such description in any case.

(h) Landscaping.

The location and size of deciduous and evergreen trees and ground cover and other landscaping elements, in accordance with the landscaping requirements of Subtitle 1, Part IV, Subpart 3, shall be graphically represented and identified.

(i) Forest Conservation Ordinance.

All forest conservation information required under Subtitle 2 of this Title shall be graphically represented and identified.

18-1-150 Other Contents of Site Plan.

(a) In general.

A site plan shall also contain the information required by this Section and may include other information that the applicant considers relevant to any factor to be considered by the Planning Commission. The information required by this Section may be shown on the plat referred to in Section 18-1-149 of this Subtitle or in separate documentation.

(b) Specific requirements.

The site plan shall contain:

(1) Two (2) copies of:

(i) All recorded deeds by which the present owner holds fee simple title to the site;
and

(ii) All easements, covenants, and restrictions that affect all or any part of the site;

(2) One copy of the base site area and net buildable area calculations as required by this Subtitle;

(3) The engineering specifications set forth in Section 18-1-185 of this Subtitle;

(4) Any sediment control plan required by the Sediment Control Ordinance; and

(5) A color photograph and/or rendering of any proposed building as viewed from the front of the lot at the street lot line and elevation views of the remaining sides of the building, sufficient to represent adequately its appearance, massing and relationship to the site.

(c) Cover letters.

All original and revised development applications must be accompanied by an appropriate number of applications, plats, and cover letters outlining the project, noting any changes to the project, and addressing formal staff comments.

18-1-151 Administrative Review of Site Plan.

(a) Preapplication meeting.

(1) Prior to the submittal of a new development application that requires Planning Commission approval, a preapplication meeting between the Department, the applicant and the applicant's engineer/surveyor is required.

(2) The purpose of this meeting is to provide the applicant with:

(i) Relevant guidance as to local, state, and federal land use policies and regulations;

(ii) The development review schedule; and

(iii) Time frames to the extent possible.

(b) Development review schedule.

(1) The development review schedule applies only to development applications requiring Planning Commission approval.

(2) The schedule is updated on a yearly basis and is available at the Department.

(c) Same—Time frame.

The development review schedule includes the following significant time frames.

(1) The original submittal date is the first regularly scheduled date when a project with a complete application may be submitted to the Department and included in the development review cycle. A submittal meeting between the Department and the applicant's agent is required.

(2) Staff Technical Advisory Committee (STAC) refers to the regularly scheduled date when relevant government agencies meet to review development applications and provide the applicant with formal comments. Each development application requires STAC review at least once. Development applications that involve concept and site plan approval require STAC review at each stage of the approval process. Revisions to approved site plans will not require additional STAC review. The Planning Director reserves the right to eliminate unnecessary STAC reviews, if appropriate. Formal staff comments will not be made available to the engineers/surveyors or applicants until a STAC meeting.

(3) The twenty-five (25)-day cutoff is the regularly scheduled date that complete development applications may be submitted to the Department for consideration for the next regularly scheduled Planning Commission meeting. A submittal meeting between the Department and the applicant's agent is required.

(4) The fifteen (15)-day administrative approval is the regularly scheduled date when the Department completes all development application reviews, sets the Planning Commission agenda and prepares Planning Commission staff reports.

(5) The Planning Commission meeting is the regularly scheduled date that the Planning Commission meets.

(d) Incomplete applications.

Incomplete development applications submitted on the original cutoff and/or twenty-five (25)-day cutoff date will not be accepted or moved forward for the formal development review cycle. Should the applicant still desire staff review of the development application, the applicant must sign a "letter of understanding" indicating the applicant understands the development application is incomplete and will not be processed through the development review cycle. Incomplete development applications will be reviewed as staff time permits.

18-1-152 Report to Commission.

(a) When made.

Action may not be taken in accordance with this Section or Sections 18-1-149 through 18-1-152 of this Subtitle until any major or minor subdivision necessary to establish the site has been finally approved and the applicant has delivered to the Planning Director:

(1) Reports containing an affirmative statement by each agency to whom the site plan has been referred that the site plan meets all requirements with which the particular agency is concerned and that the agency has no recommendations;

(2) At least one mylar;

(3) The following number of paper copies of the site plan:

(i) For a major site plan, seventeen (17) paper copies; or

(ii) For a minor site plan, sixteen (16) paper copies; and

(4) A disk that contains a CAD drawing illustrating all approved property lines only, if available.

(b) Report.

After determining that the site plan conforms with all requirements of this Subtitle, the Planning Director shall promptly report those facts to the Planning Commission in writing.

18-1-153 Consideration by Commission.

(a) Submission.

(1) The site plan, all other documents filed by the applicant, and the report of the Planning Director shall be submitted to the Planning Commission at its next regular meeting that is at least ten days after the report of the Planning Director.

(2) The Commission may require the applicant to submit any additional information that it deems necessary to assist in its review of the site plan.

(b) Requirements for approval.

The Planning Commission may not approve any site plan unless it determines that the site plan:

(1) Meets all requirements of this Title;

(2) Will not substantially increase traffic hazards or safety concerns due to traffic generated by the proposed use, the location or orientation of curb cuts, or the layout of internal circulation;

(3) Contains a layout of buildings, parking, roads, and utilities that does not substantially increase fire, health, or other public safety hazards;

(4) Is adequately buffered and screened to minimize potential adverse impacts to neighboring properties and public rights-of-way;

(5) Will not substantially increase storm water drainage or pollution;

(6) Will not have an unreasonably adverse effect upon property values in the vicinity of the site;

(7) Will not adversely affect the public welfare; and

(8) Is compatible with the general character of the surrounding neighborhood.

(c) Approval.

If the Planning Commission determines that the site plan fulfills all of the requirements for approval, it shall approve the site plan.

(d) Conditional approval.

If the Planning Commission determines that the site plan does not adequately fulfill any one or more of the requirements for approval and that such inadequacy may be removed by amendment of the site plan or the application of conditions to approval, the Commission may approve the site plan subject to such conditions and/or submission of a revised site plan containing changes that the Commission determines will adequately fulfill the requirements for approval.

(e) Denial of approval.

If the Planning Commission determines that the site plan does not fulfill any one or more of the requirements for approval and that the requirements for approval cannot be fulfilled by amendment to the site plan or by the application of conditions to approval, the Commission shall deny the application. The decision shall contain the reasons for denial.

(f) Notification.

Unless the applicant or the applicant's representative is present at the meeting at which action is taken by the Planning Commission, the Planning Director shall:

(1) Within three (3) days after the meeting, verbally notify the applicant of that action; and

(2) Within ten (10) days, provide written notice to the applicant.

18-1-154 Conditions of Approval by Commission.

(a) Required conditions.

In addition to any other conditions that it may impose under this Subpart, any final approval by the Planning Commission shall:

(1) Include a schedule for commencement and substantial completion of all construction, including construction referred to in paragraph (2) of this Subsection (which period shall ordinarily be no more than twenty-four (24) months from the date of final approval by the Planning Commission);

(2) Include a finding that all resource protection, landscaping, buffer yards, off-street parking and loading, and other facilities and improvements required under this Subtitle and all required improvements that the Planning Commission determines are necessary with respect to the particular site have been completed; and

(3) Include a finding that all non-conformities have been addressed in accordance with the provisions of this Subtitle.

(b) Guarantee.

(1) If any required improvement is not completed at the time when a site plan might otherwise be approved, the Planning Commission may approve the site plan conditioned upon the filing of a guarantee, in a form and with the undertakings provided in Sections 18-1-159 through 18-1-164 of this Subtitle.

(2) The Planning Commission shall establish the amount of any guarantee and a reasonable time within which the improvement is to be completed.

18-1-155 Form and Duration of Approval.

(a) Form.

(1) After approval, the Chairman or Secretary of the Commission (or, in the case of a minor site plan, the Planning Director) shall note the approval and its date on the site plan.

(2) The signature of the Chairman, Secretary, or Planning Director shall constitute final approval of a site plan, and a site plan is not finally approved until the required signature is affixed.

(b) Duration.

If all construction is not completed within the required time, any approval given under this Subtitle is void after the time established by the Planning Commission for completion of all construction.

18-1-156 Recording.

After an approved site plan has been signed as required under this Subtitle, an approved site plan and all related documents shall be permanently filed by the Planning Director among the records of the Department of Planning and Zoning.

18-1-157 Amendment of Approved Site Plans.

(a) In general.

A site plan approved by the Planning Commission in accordance with Sections 18-1-152 through 18-1-156 of this Subtitle or under any prior ordinance, including any conditions or guarantees