

Chapter 151-3 Development Review Procedures

151-3.1 General

A. Authority to File Applications

Applications for development approval under this Land Development Code may be filed by: the property owner of record, a purchaser under a contract for sale from the record owner, or the duly authorized agent of the record property owner. County officials shall be authorized to require proof of legal authority to take the action sought. The County Commission may initiate any action under this Land Development Code with or without an application from the record property owner.

B. Form of Application

Applications required under this Section must be submitted on forms and in such numbers as required by the official responsible for accepting the application.

C. Fees

1. Application Filing Fees

Applications must be accompanied by the nonrefundable fee established by County Commission. Fees shall not be required with applications initiated by Review and or Decision-Making Bodies. See Sec. 151-16.

2. Special Hearing Deposit

a. Generally

Where the total time of a hearing is expected to exceed 2 hours, as determined by the Planning and Zoning Director, a special hearing expense deposit shall be paid by the applicant in addition to the application filing fee. Special hearing deposits are to cover actual expenses. The required deposit amounts have been established by County Commission. At any point prior to the conclusion of all hearings on a matter, the County Commission may, for good cause and based on anticipated actual costs, require a deposit to exceed the amount required for applications falling in the "Other" category of "Special Hearing Deposit," as shown in the Fee Schedule of Sec. 151-16.

b. Application Review

At the time of application filing, the applicant shall state the number of witnesses and the amount of time the applicant anticipates for the presentation of all evidence to applicable review and decision-making bodies. The application must be accompanied by a list of witnesses and exhibits. The Planning and Zoning Director will review all applications and make a determination of whether the hearing is likely to exceed 2 hours in length. Such determination shall be based upon: (1) the information supplied in the application, (2) the expected amount of public input, and (3) the Planning and Zoning Director's experience with local practices. If it is determined by the Planning and Zoning Director that the public hearing will exceed 2 hours in length, the applicant shall be subject to the special hearing deposit provisions of this subsection.

c. Deposit Required

If at any time either before the filing of the application, or prior to a final decision of the applicable decision-making body, the Planning and Zoning Director determines that the hearings are likely to exceed 2 hours in length, the Planning and Zoning Director shall notify the applicant in writing of this determination and order the applicant to post a special hearing expense deposit, which shall be held in an account by the County Treasurer in a depository established for that purpose by the County Commission. Upon the

issuance of such order by the Planning and Zoning Director, all proceedings upon the application shall be stayed until the deposit is received by the county. After such a stay is in effect for a period of 14 calendar days and the deposit is not made with the county, the application shall be dismissed, without prejudice against re-filing of the application.

d. **Escrow Account Established**

There shall be an escrow account established under the supervision of the County Treasurer's Office for each case for which the applicant pays an expense deposit. The County Treasurer shall disburse payment from the escrow account upon billings supplied by the Planning and Zoning Director and approved by the County Administrator. These billings shall reflect the actual charges incurred which will be charged against the amount on deposit in escrow. When each billing is made, the Planning and Zoning Director shall simultaneously mail a copy of the billing to the applicant at the address listed in the application.

e. **Additional Deposits**

At any time that the escrow account falls below a balance of 20 percent of the initial total expense deposit, the County Treasurer shall immediately inform the Planning and Zoning Director, whereupon the Planning and Zoning Director shall write to the applicant at the address shown on the application and direct the applicant to make deposit equal to the amount of the initial expense deposit. After the Planning and Zoning Director make such order, all proceedings on the application shall be stayed until the county receives the additional deposit. If the additional deposit is not received within 14 calendar days of said order, or if the applicant indicates a refusal to make such additional deposit, the application shall be dismissed without prejudice against re-filing.

f. **Refunds**

Upon final disposition of the application or dismissal of the application, the balance of the deposit in escrow with the County Treasurer, after all expense payments are made, shall be returned to the applicant upon the applicant's written request.

D. Complete Application

Applications that do not include required information or that are not accompanied by required fees will be returned to the applicant as incomplete, and no further processing of the application will occur until the deficiencies are corrected. Applications will be reviewed for completeness within 10 days of filing. If the official responsible for accepting the application determines that the application is complete, the application will be processed. If the official responsible for accepting the application determines that the application is incomplete, the application will be returned to the applicant along with a written explanation of the application's deficiencies.

E. Preapplication Conferences

All applicants are encouraged to schedule and attend a preapplication conference meeting with Planning and Zoning Department staff prior to submitting an application for review under this chapter. The purpose of a preapplication conference is to inform the applicant of applicable procedures, submittal requirements, development standards, and other pertinent matters before the applicant finalizes the development proposal. Staff opinions presented during a preapplication meeting are informational only and do not represent a commitment on behalf of the county regarding the acceptability of the development proposal.

F. Establishment of Processing Cycles

Officials responsible for accepting applications, after consulting with review and decision-making bodies, may promulgate processing cycles for applications. Processing cycles may establish:

1. Deadlines for receipt of complete applications;

2. Dates of regular meetings;
3. The scheduling of staff reviews and staff reports on complete applications;
4. All required steps in the application process (including public hearings, and reviews by other agencies); and
5. Required time frames for action by review and decision-making bodies.

G. Planning and Zoning Director and Agency Review

In conducting required reviews, the Planning and Zoning Director shall be authorized to distribute the application and other submittals to other departments and agencies for the purpose of soliciting comments and ensuring that the proposal complies with all applicable standards and requirements. The Technical Review Committee (TRC) may be convened to review technical aspects of applications. (See Sec. 151-2.4C.)

H. Notices

All notices required under this Land Development Code must: (1) indicate the time and place of all scheduled public hearings; (2) describe the property involved in the application by street address, legal description or map; (3) describe the nature, scope and purpose of the proposal; and (4) indicate the location and source of additional information about the proposal.

1. Written Notice

- a. Unless otherwise expressly stated, when the provisions of this Land Development Code require that written notice be provided, the official responsible for accepting the application shall provide written notice by certified mail to all owners of the subject property and all property owners within 1,000 feet of the subject property. Written notice shall also be sent by regular mail to the City Clerk of any municipality within 1½ miles of the subject property.
- b. Written notices shall be deposited in the U.S. mail at least 15 days before the first scheduled public hearing.
- c. The applicant shall be responsible for providing the Planning and Zoning Department with a list of the names and addresses of the owners of record of all property within 1,000 feet of the subject property. The ownership information shall be obtained from a licensed abstractor, title company, registered surveyor or similarly qualified person whose services have been secured by the applicant. This information should be provided in electronic and printed form. Failure to notify all adjoining owners may invalidate the public notice requirements and cause the application to be tabled until proper notification is completed.

2. Published Notice

When the provisions of this Land Development Code require that notice be published in the newspaper, the official responsible for accepting the application shall ensure that notice is published in a newspaper of general circulation within Clay County at least 15 days before the first scheduled public hearing.

3. Constructive Notice

Minor technical deviations from specified notice requirements shall not be deemed to impair notice where there is actual notice. Written notice shall be conclusively presumed to be properly given if placed, postage prepaid, with the United States Postal Service addressed in accordance with the list provided by the applicant. When required written notices have been properly given, failure of a party to receive such notice shall not invalidate any subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date and place of a hearing and the general location of the subject property shall be strictly construed. If questions arise at the hearing regarding the adequacy of notice, the body hearing the matter shall determine

whether there was compliance with the notice requirements of this section.

4. Delay in County Commission Hearing

If there is a delay in forwarding a recommendation to the County Commission based on technical reasons, and no specific date is announced at the Planning and Zoning Commission public hearing, written notice shall be sent by regular mail to all adjoiners within 1000' at least 15 days prior to the County Commission hearing at which the application will be heard.

I. Action by Review and Decision-Making Bodies

1. Review and decision-making bodies may take any action on an application that is consistent with the notice given, including approving the application, approving the application in modified form or denying the application. Decision-making bodies shall also be authorized to remand an application back to a review body for further consideration and recommendation.
2. Review bodies may recommend and decision-making bodies may modify or allow amendments to the application if the effect of the modifications or amendments is to allow a less intensive use or zoning district than indicated in the application or to reduce the impact of the development or to reduce the amount of land area included in the application. (See Zoning District Hierarchy, Sec. 151-4.1)
3. Decision-making bodies may not approve an application for a greater density of development, a more intensive use, a more intensive zoning district, reduced setbacks, more dwelling units, greater height, more access points or fewer improvements than indicated in the notice.

Figure 151-3-1: Review and Approval Procedures Summary

PROCEDURE	Sec. No.	Review and Decision-Making Bodies			
		Staff/TRC	BZA	PZC	CC
LDC Text Amendments	151-3.2	R	-	R	DM
Zoning Map Amendments	151-3.3	R	-	R	DM
Minor Subdivision	151-3.5	R	-	R	DM
Preliminary Plat		R	-	R	DM
Final Plat		R	-	R	DM
Major Subdivision	151-3.6				
Preliminary Plat		R	-	R	DM
Engineering and Construction Plans		DM	-	-	-
Final Plat		R	-	R	DM
Planned Developments & Conserv. Distr.					
PUD Concept Plan	151-3.8	R	-	R	DM
CD Concept Plan	151-3.7	R	-	R	DM
Final PUD Plan and Plat	151-3.7	R	-	R	DM
Final CD Plan and Plat	151-3.8	R	-	R	DM
Conditional Use Permits	151-3.9	R	-	R	DM
Variances	151-3.11	R	DM	-	-
Vacations	151-3.12	R	-	R	DM
Written Interpretations	151-3.13	DM	-	-	-
Appeals of Administrative Decisions	151-3.14	-	DM	-	-
Comprehensive Plan	151-2.1	R	-	DM	R

Staff = Planning & Zoning Administrator
PZC = Planning & Zoning Commission
R=Review Body (Review and Recommendation)

BZA = Board of Zoning Adjustment
CC = County Commission
DM=Decision-Making Body (Final Action)

J. Inaction by Review and Decision-Making Bodies

1. Review Bodies

When a review body fails to take action on an application, upon request of the applicant within three months from the first public hearing the application shall be forwarded to the decision-making body with no recommendation.

2. Decision-Making Bodies

Unless otherwise expressly stated, when a decision-making body fails to take action on an application within a required time frame or 90 days, whichever is greater, that inaction will be deemed a denial of the application, unless an extension is granted.

K. Continuation of Public Hearings

A public hearing for which proper notice was given may be continued to a later date without again complying with the notice requirements, provided that the continuance is set for a date and time certain and announced at the time of the public hearing.

L. Compliance with Missouri Revised Statutes

The development review procedures of this Section are intended to implement the procedural requirements of Missouri Revised Statutes. In the event of conflict between the procedures of this chapter and those of the Missouri Revised Statutes (RSMo 64.510-690 and RSMo 64.905–906) the state statutes shall control.

M. Burden of Proof Persuasion

The burden of demonstrating that an application complies with applicable review and approval criteria is on the applicant. The burden is not on the county or other parties to show that the criteria have not been met.

151-3.2 LDC Text Amendments

A. Planning and Zoning Department's Review and Report

The Planning and Zoning Department shall review each proposed Land Development Code text amendment and provide a report to the Planning and Zoning Commission.

B. Public Hearing Notice

Published notice of the Planning and Zoning Commission's public hearing shall be provided in accordance with Sec. 151-3.1H-2.

C. Planning and Zoning Commission's Review and Recommendation

The Planning and Zoning Commission shall hold a public hearing on the proposed text amendment and make a recommendation to the County Commission based on the Approval Criteria of Sec. 151-3.2I.

D. County Commission Review and Decision

After receiving the recommendation of the Planning and Zoning Commission, the County Commission shall take action on the application based on the Approval Criteria of Sec. 151-3.2I.

E. Approval Criteria

In taking action on Land Development Code text amendments, review and decision-making bodies shall consider whether the proposed amendment advances the stated purpose and intent of Sec. 151-1.7.

151-3.3 Zoning Map Amendments

A. Application Filing

All property located within unincorporated Clay County are considered Agricultural (AG) district unless the property has been rezoned according to past or current zoning regulations of Clay

County. Zoning Map Amendment (“Rezoning”) applications shall be submitted to the Planning and Zoning Department on forms available in the Planning and Zoning Department.

1. Adjacent Property Owners

The applicant for a proposed rezoning shall provide the Planning and Zoning Department with a list of names and addresses of the owners of record of all property within 1,000 feet of the property in question, as specified by RSMo 64.645. A property abstractor, title company, registered surveyor, or similarly qualified person whose services have been secured by the applicant shall have originated such list. Such list shall be provided with the application in electronic and paper forms. Failure to properly notify all adjacent property owners may invalidate the public notice requirements and cause the application to be tabled until proper notification is completed.

2. Water Supply Approval

Written approval from the respective public water supply district (PWSD) or a municipal water supplier for the proposed project shall be submitted with the application. If water service from the PWSD is not available, this should be noted in writing from the district. If the project is not within the boundaries of any PWSD or not capable of being served by any other water supplier, arrangements shall be made in accordance with this section.

3. Sanitary Sewer Approval

Written approval of the project from the Clay County Health Department shall be submitted with the application. In instances where more than seven lots are being created (5 acres each or less) or fourteen lots are being created (over 5 acres each), written approval from the Missouri Department of Natural Resources (DNR) must be submitted at the time of application, in addition to morphology approvals from the County Health Department.

4. Clay County Highway Department Approval

A plan review fee shall be paid to the Clay County Highway Department and submitted with the application. Written approval from the Clay County Highway Department of all roadways and accesses shall be required for subdivision approval.

5. Missouri Department of Transportation (MoDOT) Approval

If the project abuts a State maintained highway, written approval from MoDOT shall be required for subdivision approval.

6. Preliminary Plat

Rezoning applications must be accompanied by a Preliminary Plat application, according to the specific type of application.

B. Public Hearing Notice

Written and published notice of the Planning and Zoning Commission’s public hearing shall be provided in accordance with Sec. 151-3.1H-1 and Sec. 151-3.1H-2.

C. Planning and Zoning Department’s Review and Report

The Planning and Zoning Department shall review each proposed Zoning Map Amendment and provide a report to the Planning and Zoning Commission.

D. Planning and Zoning Commission’s Review and Recommendation

The Planning and Zoning Commission shall hold a public hearing on the proposed Zoning Map Amendment and make a recommendation to the County Commission based on the Approval Criteria of Sec. 151-3.3F. The Planning and Zoning Commission’s hearing shall be set for a date not later than 60 days after receipt of a complete application. Transmittal of the recommendation shall be made to the County Commission within 90 days of the Planning and Zoning Commission’s hearing, unless the applicant requests a delay or withdrawal in writing.

E. County Commission Review and Decision

After receiving the recommendation of the Planning and Zoning Commission, the County

Commission shall take action on the application based on the Approval Criteria of Sec. 151-3.3F.

F. Approval Criteria

In acting on proposed Zoning Map Amendments, review and decision-making bodies shall consider the following:

1. Whether or not the proposed amendment corrects an error or inconsistency or meets the challenge of a changing condition in the area;
2. Whether or not the proposed amendment is consistent with the *Comprehensive Plan* and the stated purpose and intent of Sec. 151-1.7;
3. Whether or not the proposed zoning district as a whole allows development that is compatible with existing uses and zoning of nearby property;
4. Whether or not the county and other service providers will be able to provide adequate public facilities and services to the subject property, while maintaining adequate levels of service to existing development; and
5. Whether or not the proposed amendment would result in significant adverse impacts on other property in the vicinity of the subject tract or on the environment, including air, water, noise, stormwater management, and natural resources.

G. Protest Petitions

1. Super-Majority Vote Required

If a valid protest petition is submitted to County Clerk within 14 days of the date of the conclusion of the Planning and Zoning Commission's last hearing on the proposed zoning map amendment, approval of the zoning map amendment by the County Commission shall require a favorable vote of at least $\frac{2}{3}$ of all the members of the County Commission. If the County Commission returns the application to the Planning and Zoning Commission for reconsideration, previously filed petitions shall be invalidated and a new protest petition must be filed.

2. Definition of "Valid" Protest Petition

- a. In order to be deemed "valid," a protest petition must be:
 - i. Signed and acknowledged by the owners of 30 percent of the frontage within 1,000 feet to the right or left of the frontage proposed to be changed;
 - ii. Signed and acknowledged by the owners of 30 percent of the frontage directly opposite, or directly in the rear of the frontage proposed to be altered; or
 - iii. Made by resolution of the city council or board of trustees of a zoned municipality located within $1\frac{1}{2}$ miles of the subject tract.
- b. The term "owner" for purposes of protest petitions shall include all those individuals that have ownership in the subject real property or property within 1,000 feet as provided in this section. If the property is owned by joint tenancy, all such owners must sign the petition by their own hand to be valid, unless the petition itself clearly indicates that one tenant has the legal authority to sign for and on behalf of the other. If a corporation, partnership or entity other than an individual meets the requirements to protest an action and desires to sign a petition; the following must appear on the petition in order for such organization to be counted with the petition:

- i. The proper name in which title to its property is held;
- ii. The address of its property;
- iii. The name of the individual signing on behalf of the corporation, partnership or entity;
- iv. The title or authorization of the individual to sign on behalf of the corporation, partnership, or entity; and
- v. The signature of each owner signing the petition must be properly notarized.

H. Successive Applications

1. If the County Commission denies an application for a Zoning Map Amendment, an application for the same or more intensive zoning on the subject parcel, whether the parcel is in its original configuration or expanded or reduced in area, shall not be accepted for 6 months from the date that the County Commission acted to deny the amendment.
2. If the County Commission denies an application for a Zoning Map Amendment, for I-1 or I-2 zoning, an application for the same or more intensive zoning district shall not be accepted for 3 years from the date that the County Commission acted to deny the amendment.
 - a. The Planning and Zoning Director may permit a re-filing of an I-1 or I-2 district zoning amendment application after 6 months if the Planning and Zoning Director determines, based on clear and convincing evidence provided by the applicant, that a substantial change in circumstances has occurred since the County Commission denied the rezoning which is the result of new facts that were not discoverable by the applicant during the previous proceedings with the use of reasonable diligence or as a result of material facts which have arisen since the previous decision. Such showings must be made prior to acceptance of the application.
 - b. The decision of the Planning and Zoning Director on a request to re-file an I-1 or I-2 zoning map amendment must be provided in writing and forwarded to the applicant with a copy of the decision to the Planning and Zoning Commission within 30 days of the submission of an application. Any person aggrieved by a decision of the Planning and Zoning Director under this section may appeal the decision of the Planning and Zoning Director to the Board of Zoning Adjustment within 30 days of decision of the Planning and Zoning Director.

I. Appeals

Any person aggrieved by a decision of the County Commission on a Zoning Map Amendment may present to the Circuit Court of Clay County a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the Court within 30 days of the date of the County Commission's decision on the matter.

151-3.4 Subdivision

This section sets out the review and approval process for Subdivision process and Plats. The process consists of 3 required steps: (1) Preliminary Plat review and approval; (2) Engineering Plan review and approval; and (3) Final Plat review and approval.

A. Applicability

The procedures of this section shall apply to all subdivisions of land unless otherwise expressly exempted. No building permit shall be issued for any structure that is located upon a lot in a subdivision that has not been subdivided in accordance with the subdivision procedures of this section.

1. Exemptions

The following shall be exempt from the procedures of this section:

- a. A transaction between owners of adjoining unplatted property that involves only a change in the boundary between the land owned by such persons provided no additional tracts are created and such tracts comply with the lot size and setback standards of the underlying zoning district.
- b. Property, which is created by adjoining unplatted tracts parcels that involve the combination of contiguous, parcels of land into one larger parcel.
- c. The conveyance of land for street or railroad right-of-way, utility or drainage easements, or other public utility purposes subject to local, state, or federal regulations, and where no new street or access easements are created.
- d. The conveyance of land for public recreation, trails or similar easements and public purposes.
- e. The division of land into parcels 20 acres or larger in area on or before June 13, 1994 and in compliance with the county subdivision regulations in force at that time.
- f. The division of land into parcels 40 acres or larger in area after June 13, 1994 and in compliance with the county subdivision regulations in force at that time.
- g. The division of land into parcels 40 acres or larger in area after the date of adoption of this chapter, provided such tracts have at least 100 total feet of frontage along a state or county maintained roadway, and access to the tracts and any remnant parcels comply with the county or state minimum sight distance requirements.
- h. The division of land into cemetery plots.
- i. The division of land by any court action pursuant to the law of eminent domain.
- j. A division of property through the probate of an estate, or by order or judgment of a court of law of competent jurisdiction of the State of Missouri.

(Commentary: The exemption for cemetery plots exempts the creation of individual subdivision plots from the subdivision process. It does not exempt those creating a cemetery.)

151-3.5 Minor Subdivision

A Minor Subdivision refers to a reconfiguration of land that contains 3 or fewer residential lots. The intent is to streamline the process to accommodate subdivisions of land that are determined to be minor in nature. It requires a preapplication conference, possible Rezoning, Preliminary Plat, technical reviews, and Final Plat review and approvals by the Planning and Zoning Commission and the County Commission. After considering all prior subdivision activity on the greater parcel, a determination will be made by the Planning and Zoning Director whether or not the application may proceed as a Minor Subdivisions.

A. Prerequisites

- a) Creates no more than 3 residential lots
- b) Does not require the extension of public facilities or the creating of significant public improvements, as determined by the Planning and Zoning Director
- c) Has access to an existing street and does not involve any new interior streets
- d) Shall be under one ownership
- e) Shall be split from one contiguous parcel
- f) Does not create a nonconforming lot
- g) Does not contain a "phased development" plan
- h) In the case of an existing nonconforming parcel, does not increase the nonconformity
- i) Not more than one Minor Subdivision involving any part of the original property per every 5 years
- j) Does not adversely affect the remainder of the parcel or adjoining properties and is not in conflict with any provisions of the Clay County Comprehensive Plan or these regulations.
- k) The same zoning district is requested for all lots within the subdivision.

B. Process

1. Preapplication Meeting

All applicants shall schedule and attend a preapplication meeting with Planning and Zoning Department staff prior to submitting an application for review under this chapter.

2. Application Filing

A Minor Subdivision application shall be completed and submitted to the Planning and Zoning Department on forms available in the Planning and Zoning Department. All required information and a Preliminary Plat shall be filed with the Planning and Zoning Department at least 45 days prior to a regular meeting of the Planning and Zoning Commission at which the Final Plat is to be considered.

3. Preliminary Plat

A Preliminary Plat prepared by a registered surveyor shall conform to the requirements of Figure 151-3.6-1. The applicant shall submit 20 paper copies (24"x 36") and 6 paper copies (11"x 17").

4. Technical Review of Preliminary Plat

The Preliminary Plat shall be reviewed by planning staff and the Technical Review Committee (TRC) for compliance with the Land Development Code, state statutes and other applicable codes. After such review, the applicant will be notified that the Minor Subdivision may or may not proceed to the Final Plat stage.

5. Final Plat

A Final Plat prepared by a registered surveyor shall be submitted by the first Monday of the month and shall conform to the requirements of Figure 151-3.6-2.

6. Rezoning, Preliminary and/or Final Plat Application

A completed application for Rezoning (if necessary), Preliminary and/or Final Plat, along with the appropriate application fees, shall be submitted at least 28 days prior to the meeting at which the Planning and Zoning Commission shall review the application.

7. Planning and Zoning Department's Review and Report

The Planning and Zoning Department shall review each proposed Final Plat application and provide a report to the Planning and Zoning Commission.

8. Planning and Zoning Commission Review and Decision

Within 30 days of receipt of a complete Final Plat application, the Planning and Zoning Commission shall review the Final Plat and take action on the application based on the Approval Criteria of Sec. 151-3.3F.

a. **Approval Criteria**

Final Plat may be approved by the Planning and Zoning Commission if they determine that all of following approval criteria have been met:

- i. the subdivision complies with zoning regulations of the district in which it is located, the Subdivision Design and Improvement Standards of Chapter 151-8 and with all other applicable standards of this Land Development Code; and
- ii. adequate public safety, transportation and utility facilities/services will be available to serve the subdivision while maintaining adequate levels of service for existing development.

b. **Transmittal**

Transmittal of the recommendation to the County Commission shall be made within 90 days of the Planning and Zoning Commission's hearing.

c. **Denials**

A recommendation of denial of a Final Plat by the Planning and Zoning Commission shall be forwarded to the County Commission for action, unless the applicant requests the application be withdrawn in writing within 30 days of the public hearing.

d. **Appeal**

Any person aggrieved by a decision of the Planning and Zoning Commission on an application may present to the Board of Zoning Adjustment.

9. **County Commission Review and Decision**

After receiving the recommendation of the Planning and Zoning Commission, the County Commission shall take action on the application based on the Approval Criteria of Sec. 151-3.3F.

a. **Approval Criteria**

A Rezoning and/or Final Plat may be approved by the County Commission if they determine that the application complies with the Land Development Code.

10. **Lapse of Final Plat Approval**

The County Commission's approval of the Final Plat shall lapse and be of no further effect if the Final Plat is not recorded with the Recorder of Deeds within 1 year of the County Commission's approval.

11. **Appeals**

Any person aggrieved by a decision of the County Commission on a Final Plat application may present to the Circuit Court of Clay County a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the Court within 30 days of the date of the County Commission's decision on the matter.

151-3.6 Major Subdivision

A Major Subdivision refers to a reconfiguration of land that contains any zoning district other than residential, residential with four or more lots, or any residential that requires interior streets. It requires a preapplication conference, application, Rezoning (if necessary), Preliminary Plat, technical reviews by staff, Rezoning and Final Plat review and approvals by the Planning and Zoning Commission and the County Commission. All subdivision applications shall be processed under the Major Subdivision regulations unless determined by the Planning and Zoning Director to be eligible for Minor Subdivision status.

(Commentary: Applicants for subdivisions are encouraged to discuss possible development site design possibilities and related issues with the Planning and Zoning Department prior to submission of any plat. After such pre-application conference, the applicant may submit a preliminary plat for consideration by the Planning and Zoning Commission)

A. Preliminary Plats

1. Application Filing

Preliminary Plat applications shall be submitted to the Planning and Zoning Department on forms available in the Planning and Zoning Department.

a. Number of Copies to be Submitted

The applicant shall submit at least 20 paper prints (24" x 36"), 6 paper prints (11" x 17"), and an electronic version of the Preliminary Plat, with a vicinity map showing the location of the proposed subdivision. All required information shall be filed with the Planning and Zoning Department at least 28 days prior to a regular meeting of the Planning and Zoning Commission at which the Preliminary Plat is to be considered. Information to be shown on the Preliminary Plat is indicated in Figure 151-3.6-1.

b. Water Supply Approval

Written approval from the respective public water supply district (PWSD) or a municipal water supplier for the proposed project shall be submitted with the preliminary plat application. If water service from the PWSD is not available, this should be noted in writing from the district. If the project is not within the boundaries of any PWSD, or not capable of being served by any other water supplier, arrangements shall be made in accordance with this chapter.

c. Sanitary Sewer Approval

Written approval of the project from the Clay County Health Department shall be submitted with the Preliminary Plat application. If the project contains more than 7 lots of 5 acres or less each, written approval must be submitted at the time of application from the Missouri Department of Natural Resources (DNR) in addition to the approval of the County Health Department.

- i. If the project contains more than 14 lots of 5 acres or more each, written approval must be submitted at the time of application from the Missouri Department of Natural Resources (DNR) in addition to the approval of the County Health Department.
- ii. If sanitary sewer service is to be provided from a sewer district or private sewer company, written approval of such service shall be provided from the service provider with the preliminary plat application.

d. Clay County Highway Department Approval

Written approval from the Clay County Highway Department of all roadways and accesses shall be submitted with the application.

- e. **Missouri Department of Transportation (MoDOT) Approval**
If located on a state highway, written approval from MoDOT shall be submitted with the preliminary plat application.
- f. **Surrounding Owners**
The applicant shall submit with the preliminary plat, a complete list of the names and mailing addresses of all owners of record of all property located within 1,000 feet of property being proposed for subdivision. The applicant is responsible for providing the list of the surrounding property owners at the time of application. Such list shall be provided with the application in electronic and paper forms. Failure to properly notify all adjacent property owners may invalidate the public notice requirements and cause the application to be tabled until proper notification is completed.
- g. **Certificate of Ownership**
The applicant shall submit a certificate proving ownership or contract of the entire tract to be platted. If not the current owner, a signed and notarized Owners' Authorization form is required.
- h. **Title Search**
The applicant shall be responsible for completing a title search locating any existing utility easements, ingress/egress easements, restrictions, and the like.
- i. **Grading and Drainage Plan**
If required by the Planning and Zoning Director, a Storm Water Pollution Prevention Plan (SWPPP) including location of existing and proposed land elevations and contours, and necessary widths of all open drainage ways shall be submitted with the application and to the Planning and Zoning Department for review purposes. These plans are not intended to be detailed suitable for construction, but shall be adequate for review of the site to insure no more than historical stormwater flows off the site.

Figure 151-3.6-1: Information Required on All Preliminary Plats

- (1) The proposed name of the subdivision. The name shall not duplicate or too closely resemble the name or names of an existing subdivision.
- (2) The location of the boundary lines of the subdivision and reference to the section or quarter section lines based on Missouri State Plane Coordinates. "Legal Description"
- (3) The names and addresses of the developer or owner and the engineer or land surveyor who prepared the plat and date of preparation located in the lower right corner of the plat.*
- (4) Scale of the plat, on inch equals 100 feet or larger.
- (5) North arrow.
- (6) Vicinity map with major streets labeled.
- (7) Existing Conditions:
 - a. Location, width and name of platted streets or other public ways, railroads and utility rights-of-way, parks and other public open spaces and permanent buildings in or within 200 feet of the proposed subdivision. The Planning and Zoning Director shall be authorized to reduce the 200-foot distance requirement if it is determined that such reduced distance will provide adequate information.
 - b. All existing sewers, water mains, gas mains, culverts or other underground installations in or within 200-feet of the proposed subdivision, with pipe size and manholes, grades and location. The Planning and Zoning Director shall be authorized to reduce the 200-foot distance requirement if it is determined that such reduced distance will provide adequate information.
 - c. Names of adjacent subdivisions, together with arrangements of streets and lots and owners of adjacent parcels or un-subdivided land.
 - d. Topography, unless specifically waived, with contour intervals of not more than two feet, referred to county or U.S.G.S. datum. Where the ground is too flat for contours, spot elevations at 100-foot distances shall be provided. In non-urban subdivisions containing more than 40 acres, contour intervals may be increased to 10 feet.
 - e. Location of water courses, bridges, wooded areas, ponds, lakes, ravines and such other features as may be pertinent to the subdivision.
 - f. Current zoning classification.
 - g. On subdivisions with more than either five acres (217,800 square feet) or 50 lots, the boundaries and elevations of the 100-year floodplains along drainage ways included in the official Flood Insurance Study (F.I.S.) for the county. Source document shall be noted.
 - h. The predominant soil types in the subdivision.
 - i. The location of any old or existing wells.
- (8) The general arrangements of lots and their approximate size and dimensions.
- (9) Front building setback lines, and proposed utility easements shown on each lot.
- (10) Location and width of proposed streets, alleys and pedestrian ways, trail easements and easements to accommodate local flooding and along major drainage ways to accommodate 100-year flooding.
- (11) The general plan of sewage disposal, water supply and drainage, including a map showing the drainage area of each major drainage way in which the subdivision is located.
- (12) Location and size of proposed parks, playgrounds, churches, school sites or other special uses of land to be considered for reservation or dedication for public use.
- (13) General layout of adjacent property within 200-feet to show how streets and other public facilities in the proposed subdivision relate to the adjacent property. The Planning and Zoning Director shall be authorized to reduce the 200-foot distance requirement if it is determined that such reduced distance will provide adequate information.
- (14) Approximate gradient of streets.
- (15) Stages of development if the total area is not proposed to be developed as a single unit.
- (16) Proper approval from the Health Department, the proper highway authorities for driveway permits and entrance way permits, acceptance of water meters from appropriate water districts.

* Plats should be folded so the lower right-hand corner is visible.

2. **Planning and Zoning Department's Review and Report**

The Planning and Zoning Department shall review each proposed Preliminary Plat application and provide a report to the Planning and Zoning Commission.

3. **Planning and Zoning Commission Review and Decision**

Within 30 days of receipt of a complete Preliminary Plat application, the Planning and Zoning Commission shall review the Preliminary Plat and take action on the application based on the Approval Criteria of Sec. 151-3.3F.

4. **Approval Criteria**

A Preliminary Plat may be approved by the Planning and Zoning Commission if they determine that all of following approval criteria have been met:

- a. the subdivision complies with zoning regulations of the district in which it is located, the Subdivision Design and Improvement Standards of Sec.151-8 and with all other applicable standards of this Land Development Code; and
- b. adequate public safety, transportation and utility facilities/services will be available to serve the subdivision while maintaining adequate levels of service for existing development.

5. **Transmittals**

Recommendations of a Preliminary Plat by the Planning and Zoning Commission shall be forwarded to the County Commission for action within 90 days, unless the applicant requests in writing that the application be withdrawn or delayed for technical reasons.

6. **Lapse of Approval**

An approved Preliminary Plat shall lapse and be of no further force and effect if a complete Final Plat application for the subdivision or a phase of the subdivision has not been submitted within 18 months of the date of Preliminary Plat approval by the Planning and Zoning Commission. If the subdivision is to be developed in phases, a phasing plan shall be approved as part of the Preliminary Plat approval.

7. **Appeals**

Any person aggrieved by a decision of the Planning and Zoning Commission on a Preliminary Plat application may appeal to the County Commission by requesting the application be moved forward in the process, as outlined.

B. [Intentionally blank]

C. **Engineering and Construction Plans**

After approval of the Preliminary Plat and prior to submittal of the Final Plat, applicants shall prepare and submit Engineering and Construction Plans for the public improvements that are to be constructed to serve the subdivision. These Engineering and Construction Plans shall be submitted to the Planning and Zoning Department who shall be responsible for ensuring that the plans are reviewed for compliance with all applicable standards and requirements. After conducting a complete review of the Engineering and Construction Plans, the Highway Administrator and/or Planning and Zoning Director shall approve or deny the Engineering and Construction Plans and provide notice of the action taken to the applicant. (See Section 151-8)

D. **Final Plats**

It is intended that final plat documents reflect approved Preliminary Plats. If the County Commission determines that a Final Plat contains substantial changes from the approved Preliminary Plat, they shall be authorized to require that the Final Plat documents be revised to be consistent with the approved Preliminary Plat or that the developer re-apply for Preliminary Plat approval based on the modified subdivision design.

1. **Application Filing**

Final Plat applications shall be submitted to the Planning and Zoning Department on forms available in the Planning and Zoning Department.

a. **Number of Copies to be Submitted**

The applicant shall submit at least 20 large paper prints (24" x 36") and 6 small paper prints (11" x 17") of the Final Plat to the Planning and Zoning Department for review and consideration by the Planning and Zoning Commission at least 28 days prior to the meeting of the Planning and Zoning Commission. If the Final Plat is approved, the applicant shall submit 2 paper and 1 Mylar copies of the corrected Final Plat for recording purposes. In addition, an electronic copy of the Final Plat shall be made available to staff, effective January 1, 2004. If no electronic copy is submitted, the applicant will be charged an appropriate fee to cover the costs of producing the plat in an electronic format. Information to be shown on the Final Plat is indicated in Figure 151-3.6-2.

b. **Names and Signatures**

The names and signatures of the owner or owners of the property duly acknowledged and notarized shall appear on the original copies submitted.

c. **Format**

The Final Plat, prepared for recording purposes by a licensed land surveyor, shall be drawn at a scale of at least one inch equals 100 feet. The size of the sheet on which such final plat is prepared shall be 24 inches by 36 inches. Where the proposed plat is of unusual size, the final plat shall be submitted on two or more sheets of the same dimensions. If two or more sheets are required, an index map of the same dimensions shall be filed showing the entire development at a smaller scale.

d. **Additional Information**

The Final Plat shall be accompanied by other required approvals, such as those of the County Health Department, water and sewer service providers. The Planning and Zoning Director and review and decision-making bodies shall be authorized to require such other information, (e.g. stormwater plans, grading and drainage plans, erosion and sediment control plans, shared sewage treatment facility designs, engineered construction plans, traffic study) as determined necessary to ensure adequate review of the proposed plat.

A "re-plat" will be processed the same as a Final Plat, with the exception that all structures (houses, accessory buildings, ponds, etc.) should be located on the submission copies of the Final Plat for Commission review; then removed for the recording copies of the Final Plat.

Figure 151-3.6-2: Information Required on All Final Plats

- | |
|---|
| <ol style="list-style-type: none">(1) Name of subdivision, not to duplicate or too closely resemble the name of any existing subdivision(2) Location of section, township, range, county and state, including the descriptive boundaries of the subdivision based on an accurate traverse, giving angular and linear dimensions which must be mathematically correct and based on the Missouri State Plane Coordinates. The allowable error of closing on any portion of the plat shall be one foot in 5,000. "Legal Description"(3) The location of existing monuments or benchmarks shall be shown and described on the final plat. Location of such monuments shall be shown in reference to existing official monuments or the nearest established street lines, including true angles and distances to such reference points or monuments(4) The location of lots, streets, public highways, alleys, parks and other features, with accurate dimensions in feet and decimals of feet with the length of radii on all curves, and other information necessary to reproduce the plat on the ground. |
|---|

actual survey made by me or under my direct supervision and that said survey meets or exceeds the current Minimum Standards for Property Boundary Surveys as established by the Department of Natural Resources, Division of Geology and Land Survey of the State of Missouri. I further certify that the bearings shown on this plat are based on (describe bearing reference system along with the method of obtaining the bearing reference); that the section and sectional subdivision corner monuments and survey boundary corner monuments were either found or set as indicated on this plat; that the lot corners and streets centerlines have been marked with permanent monumentation as indicated on this plat; that I have complied with all State and Clay County statutes, ordinances and regulations governing the practice of surveying and the platting of subdivision to the best of my professional knowledge and belief.

 (Name and RLS No.) (Signature) (Date)

e. Submission to and consideration of the County Commission in the following form:
 This plat of _____ has been submitted to and approved by the Clay County Planning and Zoning Commission this _____ day of _____, 200_.

 Chairman, Planning and Zoning Commission Director, Planning and Zoning

These easements and rights-of-way were accepted by the County Commission of Clay County, Missouri, this _____ day of _____, 200_, Resolution #200__-_____.

_____ Presiding Commissioner	_____ County Counselor
_____ Western District Commissioner	Attest: _____ County Clerk
_____ Eastern District Commissioner	STATE OF MISSOURI COUNTY OF CLAY } SS

f. A blank space for noting entry on the transfer record in the following form:
 This is to certify that this instrument was filed for record in the Recorder of Deeds Office on the _____ day of _____, 200_. In Cabinet _____, Sleeve _____ at _____ am/pm o'clock.

 Recorder of Deeds

(16) A copy of any restrictive covenants, Road Improvement Fee, Developers Agreement, pond or driveway maintenance or other agreements applicable to the subdivision shall be submitted with the Final Plat.

2. **Planning and Zoning Department's Review and Report**
 The Planning and Zoning Department shall review each proposed Final Plat application and provide a report to the Planning and Zoning Commission.
3. **Planning and Zoning Commission's Review and Recommendation**
 Within 30 days of receipt of a complete Final Plat application, the Planning and Zoning Commission shall review the Final Plat application and make a recommendation to the County Commission, based on the Approval Criteria of Sec. 151-3.3F and Sec. 151-3.6D5. Recommendations will be forwarded to the County Commissioners within 90

days of the Planning and Zoning Commission hearing unless the applicant requests in writing that the application be withdrawn or held for technical reasons.

4. **County Commission Review and Decision**

After receiving the recommendation of the Planning and Zoning Commission, the County Commission shall take action on the application based on the Approval Criteria of Sec. 151-3.3F and Sec. 151-3.6D5.

5. **Approval Criteria**

A Final Plat may be approved by the County Commission if they determine that the Final Plat complies with the approved Preliminary Plat and includes all corrections and conditions imposed by the County Commission during their approval of the Preliminary Plat.

6. **Lapse of Final Plat Approval**

The County Commission's approval of the Final Plat shall lapse and be of no further effect if the Final Plat is not recorded with the Recorder of Deeds within 1 year of the County Commission's approval. If project has interior streets, the first phase may be recorded after the streets have been installed and approved by the County Highway Administrator.

7. **Appeals**

Any person aggrieved by a decision of the County Commission on a Final Plat application may present to the Circuit Court of Clay County a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the Court within 30 days of the date of the County Commission's decision on the matter.

151-3.7 Conservation District

A Conservation District is an alternative to conventional subdivision design used to preserve and maintain the natural features and rural amenities in the county by allowing cluster-style residential development and preserving large tracts of permanent open space.

A. Description

The Conservation District (CD) is an overlay-zoning district that permits greater flexibility of land planning and site design than conventional zoning districts. CDs apply to residential use only. Through clustering and smaller lot sizes than conventional zoning, natural features of the land can be pre-served and infrastructure can be minimized. The Conservation District may be applied to any of the three development tiers; however, different standards apply to each tier.

B. Procedure

CDs shall be processed in five stages: Preapplication Conference, Concept Plan, Rezoning to Conservation District overlay, Final Plan (which includes streets, stormwater systems, sewers, phases and other improvement plans and permits) and a Final Plat for each phase of development.

1. **Preapplication Conference**

Before submitting a CD Concept Plan, the applicant shall confer with the Planning and Zoning Director or other officials designated by the Director such as Missouri Department of Conservation, Soil & Water Conservation District or other such agencies. The purpose of this preapplication conference is to discuss the proposal and the applicable development review procedures.

2. **CD Concept Plan**

A CD Concept Plan is a generalized land use plan for the entire area proposed to be included within a CD. The purpose of a CD Concept Plan is to allow early review of a proposed CD before substantial technical planning work has been undertaken.

- a. The CD Concept Plan application is reviewed with respect to such issues as density, conservation of open space and natural features of the land, impacts on surrounding areas, and the adequacy of facilities and services. The result of this review is the establishment of the basic parameters for development of the CD. The CD Concept Plan approval establishes the maximum development 'envelope' with regard to density, lot sizes, overall scale, open space, environmental protection, and other land development and service provision issues.

Figure 151-3.7-1: Conservation District (CD)

Underlying zoning	R-1	R-1A	R-1B
Minimum Lot (Straight Zone)	10 acres	3 acres	12,000 sq ft
Minimum total acreage required	50	40	40
Minimum open space required	30%	30%	30%
Increased density – Base Multiplier	% of open space (1.3, 1.47, etc.)	% of open space	% of open space
Bonus for each 100 acres	.1 per 100 acres (.3 for 300 acres)	.1 per 100 acres	.1 per 100 acres
Lot size, range	2 to 5 acres	1 to 2 acres	7,000 to 1 acre sq. ft.
Central sewer or package plant required	Yes	Yes	Yes

- b. CDs will allow incentives in the number of dwelling units in exchange for the preservation of permanent public and/or private open space based on the following formulas:

Figure 151-3.7-2: Example: Residential (R-1) Zoning District

Straight Zoning Lot size (Minimum)	Maximum lots	% of Open Space	Multiplier Factor	Yield in # of lots	Bonus Multiplier per 100 ac. **	Final Yield in # of lots
600 acres □ 10 ac.	60 lots	30	1.3	78 lots*	1.60	125*
		47	1.47	88 lots	1.60	141
		51	1.51	91 lots	1.60	145
		60	1.6	96 lots	1.60	154

* Figures are: .1-.4, rounded down; .5-.9 rounded up

** Applies to entire project acreage.

Figure 151-3.7-3: Example: Residential (R-1A) Zoning District

Straight Zoning Lot size (Minimum)	Maximum lots	% of Open Space	Multiplier Factor	Yield in # of lots	Bonus Multiplier per 100 ac. **	Final Yield in # of lots
100 acres, 3 acres	33 lots	30	1.3	43 lots*	1.1	47*
		40	1.4	46 lots	1.1	51
		50	1.5	50 lots	1.1	55
		60	1.6	53 lots	1.1	58

* Figures are: .1-.4, rounded down; .5-.9 rounded up

** Applies to entire project acreage.

Figure 151-3.7-4: Example: Residential (R-1B) Zoning District

Straight Zoning Lot size (Minimum)	Maximum lots	% of Open Space	Multiplier Factor	Yield in # of lots	Bonus Multiplier per 100 ac.**	Final Yield in # of lots
Examples: 40 acres , 12,000 sq ft	145.5 lots - 146	30	1.3	189 lots*	0	189 lots*
		40	1.4	204 lots	0	204 lots
		50	1.5	218 lots	0	218 lots
		60	1.6	233 lots	0	233 lots

* Figures are: .1-.4, rounded down; .5-.9 rounded up.

** Applies to entire project acreage.

Figure 151-3.7-5: Information Required on All CD Concept Plans

1. Name of the project, address, boundaries, date, north arrow and scale of plan.
2. Name and address of the owner of record, developer, and seal of the engineer, surveyor, architect or landscape architect who prepared the development plan.
3. Name and address of all owners of record of all property within 1,000 feet of the property in question.
4. All existing lot lines, easements, and rights-of-way. Include area in acres or square feet, abutting land uses and existing structures.
5. The general location of all existing and proposed streets adjacent to and within the development.
6. A natural resource basic inventory that would show the location of steep slopes, significant stands of trees, creeks, watercourses and drainage ways, floodplains, wetlands, wildlife habitat, soils, and any other environmentally sensitive features. A recent aerial photograph should be submitted to confirm/validate the above.
7. The location of historic, archaeological, and cultural sites.
8. Zoning district boundaries adjacent to the site's perimeter shall be drawn and identified on the plan.
9. The full legal description of the boundaries of the property or properties to be included in the Conservation District.
10. A vicinity map showing the general arrangement of streets within an area of 1,000 feet from the boundaries of the proposed Conservation District.
11. If the CD calls for construction over a period of years, a schedule showing the proposed time and sequence within which the applications for final approval of all sections of the Conservation District are intended to be filed shall be submitted.
12. Front building setback lines, and proposed utility easements shown on each lot.
13. A written summary of the project proposal, including the following:
 - Gross area of CD
 - Number of dwelling units and density
 - Amount of common open space in acres and percentages
 - Amount of common open space in acres and percentages
 - Natural features to be preserved
 - Recreation, trails and other amenities
 - Estimates of impervious ground coverage of development

C. Application Fees

No application for any phase of the CD request shall be processed until the application is complete and the required fees have been paid. Applicable fees are established by the County Commission and are nonrefundable.

1. Public Hearing Notice

Written and published notice of the Planning and Zoning Commission's public hearing

shall be provided in accordance with Sec. 151-3.1H-1 and Sec. 151-3.1H-2.

2. **Review and Report – Planning and Zoning Director**

The Planning and Zoning Director shall prepare a staff report that reviews the CD Concept Plan application in light of the CD overlay standards of Sec. 151-5.2 and all other applicable development standards and planning policies. The Planning and Zoning Director shall provide a copy of the report to the Planning and Zoning Commission and the applicant.

a. **Review and Recommendation - Planning and Zoning Commission**

The Planning and Zoning Commission shall hold a public hearing on the CD Concept Plan. At the close of the public hearing, the Planning and Zoning Commission shall vote to recommend approval, approval with conditions or denial of the CD Concept plan application. A written summary of its rezoning and subdivision actions and proceedings shall be maintained in the case file. The recommendation shall be transmitted to the County Commission for their action within 18 months.

b. **Review and Action – County Commission**

After receiving the recommendations of the Planning and Zoning Commission, the County Commission shall act to approve, approve with conditions or deny the proposed CD Concept Plan. If the County Commission acts to approve the CD Concept Plan, it shall establish required time frames for development of the entire CD and its individual phases, if any.

c. **CD Concept Plan Review Criteria**

Applications for the CD Concept Plan shall be approved if the County Commission determines that the following criteria are met:

- i. The CD Concept Plan complies with the CD standards of Section 151-3.7B2a and Sec 151-5.2;
- ii. The county and other agencies will be able to provide necessary public services, facilities, and programs to serve the development proposed at the time the property is developed;
- iii. The development is consistent with and implements the planning goals and objectives contained in the *Comprehensive Plan* and other adopted policy documents; and
- iv. The CD Concept Plan is consistent with sound planning practice and the development will promote the general welfare of the residents of the county.

d. **Effect of CD Concept Plan Approval**

Approval of a CD Concept Plan shall constitute acceptance of the overall planning concepts for the proposed CD development and is a prerequisite for the approval of a CD overlay and R-1, R-1A or R-1B zoning, and the filing of a CD Final Plan and Final Plat.

e. **Lapse of CD Concept Plan Approval**

An approved CD Concept Plan shall lapse and be of no further force and effect if a Final Plan for the CD (or a phase of the CD) has not been approved within 2 years of the date of approval of the CD Concept Plan by the County Commission or 2 years of the schedule as approved by the County Commission. In the event of such lapse, the CD zoning classification shall be of no effect and the property shall be developed solely in accordance with the underlying zoning classification.

In the event of lapse of approval pursuant to this section, the Planning and

Zoning Commission shall initiate action to remove the land from the CD overlay zoning district and may initiate action to rezone the property to its former or current base zoning district classification.

f. **Appeals to Conservation District Decisions**

Any person aggrieved by a decision of the County Commission on a Conservation District Conceptual Plan may present to the Circuit Court of Clay County a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the Court within 30 days of the date of the County Commission's decision on the matter of the Conservation District zoning.

3. **CD Zoning Map Amendment**

After approval of a CD Concept Plan, a CD overlay and base zoning map amendment may be approved; or a CD zoning map amendment may be processed concurrently with the CD Concept Plan.

4. **CD Final Plan**

The CD Final Plan is the document upon which phases will be Final platted. The CD Final Plan review stage is the point at which developers bring forward detailed plans for carrying out the type of project conceptually approved during CD Concept Plan review. The applicant must submit the detailed and technical information necessary to demonstrate that all applicable standards, requirements, and conditions have been met.

a. **Application**

After approval of a CD zoning classification and before the lapse of a CD Concept Plan, a complete application for CD Final Plan approval must be submitted to the Planning and Zoning Director. A CD Final Plan application may include the entire area covered in the CD Concept Plan or one or more phases of the approved CD Concept Plan.

b. **Information Required**

The CD Final Plan shall include the same information as required with a Concept Plan (see Figure 151-3.7-5). In addition, all construction and pollution control plans must be submitted and approved.

c. **Review and Report – Planning and Zoning Director**

The Planning and Zoning Director shall prepare a staff report that reviews the CD Final Plan application in light of the approved CD Concept Plan and all other applicable development standards and planning policies.

i. **Minor Amendments**

The Planning and Zoning Director, with written documentation may approve minor variations between the CD Concept Plan and the Final Plan. Minor amendments are those which do not alter the maximum number of dwelling units or densities already approved, or significant changes in locations, footprints, and the like.

d. **Review and Recommendation – Planning and Zoning Commission**

The Planning and Zoning Commission shall hold a public hearing on the CD Final Plan. At the close of the public hearing, the Planning and Zoning Commission shall vote to recommend approval, approval with conditions or denial of the CD Final Plan application. A written summary of its rezoning and subdivision actions and proceedings shall be maintained in the case file. The recommendation shall be transmitted to the County Commission for their action within 12 months.

e. **Review and Action – County Commission**

The County Commission shall consider the CD Final Plan application and act

to approve, approve with conditions or deny the CD Final Plan application.

f. **CD Final Plan Review Criteria**

The County Commission shall approve a CD Final Plan if it is determined by the County Commission to be in substantial compliance with the approved CD Concept Plan. The CD Final Plan shall be deemed to be in substantial compliance with the CD Concept Plan as long as, when compared with the CD Concept Plan, it does not result in:

- i. An increase of project density or intensity, including the number of housing units;
- ii. A change in the mix of housing types;
- iii. A reduction in the amount of open space or its specific use designations;
- iv. Any change to the vehicular system that results in a significant change in the amount or location of streets, parking areas, or access to the CD; or
- v. A substantial change in the layout of lots.

g. **Homeowners Association Covenants**

A mandatory homeowners association with by-laws and community covenants which shall cover the ownership, maintenance, and management of the common open space shall be required. These covenants shall be submitted to the Planning and Zoning Director for review and will be recorded at the same time as the Final Plat at the Recorder of Deeds office.

h. **Lapse of CD Final Plan**

An approved CD Final Plan shall lapse and be of no further force and effect if a Final Plat for the CD (or a phase of the CD) has not been approved within 18 months of the date of approval of the CD Final Plan. In the event of such lapse, the applicant will be required to submit a new CD Final Plan with new appropriate fees.

6. **CD Final Plat**

To complete the platting process, the applicant need only submit and record a CD Final Plat in accordance with Sec. 151-3.7.

- a. The CD Final Plan and the Final Plat may be reviewed concurrently, at the option of the applicant.
- b. A note shall be included on the Final Plat stating:
[Example:] "Rezoned to Residential (R-1, R-1A or R-1B) Zoning District with a Conservation District (CD) overlay."
- c. A Final Plat shall be recorded for each phase of the plan after the infrastructure to be built by the developer has been constructed and approved, or adequate bonding or letter of credit submitted to the County.

151-3.8 Planned Unit Developments

A Planned Unit Development (PUD) is a type of overlay zoning district and a type of development plan that primarily address the issues of mixed-use development. PUD zoning districts are inextricably linked to PUD plans in that no rights of development apply to a PUD zoning designation other than those of the approved PUD plan.

A. Overview of Procedure

PUDs shall be processed in 5 stages: Preapplication Conference; Concept Plan; Rezoning to PUD district, Final Plan, and Final Plat. Concept Plans and Rezoning may be processed concurrently, provided that no rezoning to the PUD district may occur until approval of a PUD Concept Plan.

1. Preapplication Conference

Before submitting a PUD Concept Plan, the applicant shall confer with the Planning and Zoning Director or other officials designated by the Director such as Missouri Department of Conservation, Soil & Water Conservation District or other such agencies. The purpose of this preapplication conference is to discuss the proposal and the applicable development review procedures.

2. Application

A complete application for PUD Concept Plan approval shall be submitted to the Planning and Zoning Director in a form established by the Planning and Zoning Director along with a nonrefundable fee that has been established by the County Commission. No application shall be processed until the application is complete and the required fee has been paid.

- a. A written summary of all proposed use and design requirements shall be submitted in narrative form along with the PUD Concept Plans. This narrative will explain the project goals and how certain elements being proposed might differ from the standard zoning district and subdivision requirements.

3. PUD Concept Plan

A PUD Concept Plan is a generalized land use plan for the entire area proposed to be included within a PUD. The purpose of a PUD Concept Plan is to allow early review of a proposed PUD before substantial technical planning work has been undertaken.

- a. The PUD Concept Plan is not intended to be a highly detailed site plan, but rather to provide enough information to officials to allow an accurate determination of the merits of a proposed project prior to beginning detailed planning work. Much of the information required at the Concept Plan stage can be conveyed in written form, although some generalized drawings will likely be required to comply with the following list of required information. (Figure 151-3.8-1)
- b. The PUD Concept Plan is reviewed with respect to such issues as density, including the number, type, and location of dwelling units and other uses; impacts on surrounding areas; and the adequacy of facilities and services. The result of this review is the establishment of the basic parameters for development of the PUD. PUD Concept Plan approval establishes the maximum development “envelope” with regard to density, lot sizes, overall scale, open space, environmental protection, and other land development and service provision issues.

Figure 151-3.8-1: Information Required with All PUD Concept Plans

- 1. Name of the project, address, boundaries, date, north arrow and scale of the plan.
- 2. Name and address of the owner of record, developer, and seal of the engineer, surveyor, architect or landscape architect who prepared the development plan, and date of preparation located in the lower right-hand corner.
- 3. Name and address of all owners of record of all property within 1,000 feet of the property in question.
- 4. All existing lot lines, easements, and rights-of-way. Include area in acres or square feet, abutting land uses and structures.

5. The general location of all existing and proposed streets adjacent to and within the development.
6. The location of steep slopes, significant stands of trees; creeks, watercourses and drainage ways, floodplains, and any environmentally sensitive features.
7. Zoning district boundaries adjacent to the site's perimeter shall be drawn and identified on the plan.
8. The full legal description of the boundaries of the property or properties to be included in the Planned Unit Development.
9. A generalized summary of land use arrangements within the PUD, showing types of uses and intensities proposed within areas of the PUD.
10. A vicinity map showing the general arrangement of streets within an area of 1,000 feet from the boundaries of the proposed Planned Unit Development.
11. Evidence that the applicant has sufficient control over the tract to effectuate the proposed plan, including a statement of all the ownership and beneficial interests in the tract of land and the proposed development.
12. If the PUD calls for construction over a period of years, a schedule showing the proposed time and sequence within which the applications for final approval of all sections of the Planned Unit Development are intended to be filed shall be submitted.
13. A written statement by the applicant shall be submitted setting forth the reasons why, in his or her opinion, a Planned Unit Development would be in the public interest and would be consistent with the intent of land development code and the *Comprehensive Plan*.
14. A written summary of the project proposal, including the following:
 - Gross area of PUD
 - Number of dwelling units and density
 - Amount of nonresidential floor area and floor area ratio
 - Building coverage
 - Common open space
 - Natural features to be preserved
 - Recreation, open space and other amenities
 - Proposed building materials and architectural styles

c. **Public Hearing Notice**

Written and Published notice of the Planning and Zoning Commission's public hearing shall be provided in accordance with Sec. 151-3.1H-1 and Sec. 151-3.1H-2.

d. **Review and Report—Planning and Zoning Director**

The Planning and Zoning Director shall prepare a staff report that reviews the PUD Concept Plan application in light of the PUD zoning standards of Sec. 151-8 and all other applicable development standards and planning policies. The Planning and Zoning Director shall provide a copy of the report to the Planning and Zoning Commission and the applicant.

- e. **Review and Recommendation—Planning and Zoning Commission**
The Planning and Zoning Commission shall hold a public hearing on the PUD Concept Plan. At the close of the public hearing, the Planning and Zoning Commission shall recommend approval or denial of the PUD Concept Plan application and transmit a written summary of its action and proceedings to the County Commission.
- f. **Review and Action—County Commission**
After receiving the recommendation of the Planning and Zoning Commission, the County Commission shall act to approve, approve with conditions or deny the proposed PUD Concept Plan. If the County Commission acts to approve the PUD Concept Plan, it shall establish required time frames for development of the entire PUD and its individual phases, if any.
- g. **PUD Concept Plan Review Criteria**
Applications for PUD Concept Plan approval shall be approved if the County Commission determines that the following criteria are met:
 - i. The PUD Concept Plan complies with the PUD standards of Figure 151-3.8-1;
 - ii. The county and other agencies will be able to provide necessary public services, facilities, and programs to serve the development proposed, at the time the property is developed;
 - iii. The development is consistent with and implements the planning goals and objectives contained in *Comprehensive Plan* and other adopted policy documents;
 - iv. The PUD Concept Plan is consistent with sound planning practice and the development will promote the general welfare of the county; and
 - v. A PUD is necessary to address a unique situation or represents a substantial benefit to the county, compared to what could have been accomplished through strict application of otherwise applicable base zoning district standards;
 - vi. and the same development could not be accomplished through the use of other techniques, such as rezoning to a non-PUD district or Variances.
- h. **Effect of PUD Concept Plan Approval**
Approval of a PUD Concept Plan shall constitute acceptance of the overall planning concepts for the proposed PUD development and is a prerequisite for the filing of a PUD Final Plan and approval of a PUD zoning classification.
- i. **Lapse of PUD Concept Plan Approval**
An approved PUD Concept Plan shall lapse and be of no further force and effect if a PUD Final Plan for the PUD (or a phase of the PUD) has not been approved within 2 years of the date of approval by the County Commission of the PUD Concept Plan. In the event of such lapse, the PUD zoning classification shall be of no effect, and the property shall be developed solely in accordance with the underlying zoning classification. In the event of lapse of approval pursuant to this section, the Planning and Zoning Commission shall initiate action to remove the land from the PUD overlay zoning district and may initiate action to rezone the property to its former base zoning district classification.

4. **PUD Zoning Map Amendment**

After approval of a PUD Concept Plan, or concurrently with the processing of a PUD Concept Plan, a zoning map amendment request for PUD zoning may be reviewed and

approved. PUD zoning requests shall be processed in accordance with the zoning map amendment procedures of Sec. 151-3.3.

5. **PUD Final Plan**

The PUD Final Plan is the document upon which development phases are approved. The PUD Final Plan review stage is the point at which developers bring forward detailed plans for carrying out the type of project conceptually approved during PUD Concept Plan review. The applicant must submit the detailed and technical information necessary to demonstrate that all applicable standards, requirements, and conditions have been met.

a. **Application**

After approval of a PUD zoning classification and before lapse of a PUD Concept Plan, a complete application for PUD Final Plan approval must be submitted to the Planning and Zoning Director in a form established by the Planning and Zoning Director along with a nonrefundable fee that has been established by the County Commission. No application shall be processed until the application is complete and the required fee has been paid. A PUD Final Plan application may include the entire area covered in the PUD Concept Plan or it may include one or more phases of the approved PUD Concept Plan. The final PUD plan shall include the same information as required with a Preliminary Subdivision Plat (see Figure 151-3.6-1).

b. **Review and Report—Planning and Zoning Director**

The Planning and Zoning Director shall prepare a staff report that reviews the PUD Final Plan application in light of the approved PUD Concept Plan and all other applicable development standards and planning policies.

c. **Review and Recommendation—Planning and Zoning Commission**

The Planning and Zoning Commission shall hold a public hearing on the PUD Final Plan. At the close of the public hearing, the Planning and Zoning Commission shall recommend approval or denial of the PUD Final Plan application and transmit a written summary of its action and proceedings to the County Commission.

d. **Review and Action—County Commission**

The County Commission shall consider the PUD Final Plan application and act to approve or deny the PUD Final Plan application.

e. **PUD Final Plan Review Criteria**

A PUD Final Plan shall be approved by the County Commission if it is determined by the County Commission to be in substantial compliance with the approved PUD Concept Plan. The PUD Final Plan shall be deemed to be in substantial compliance with the PUD Concept Plan so long as, when compared with the PUD Concept Plan, it does not result in:

- i. An increase in project density or intensity, including the number of housing units per acre or the amount of nonresidential floor area per acre;
- ii. A change in the mix of housing types or the amount of land area devoted to nonresidential uses;
- iii. A reduction in the amount of open space;
- iv. Any change to the vehicular system which results in a significant change in the amount or location of streets, parking areas, or access to the PUD;
- v. Any change within 50 feet of any residential zoning district;
- vi. Any change determined by the Planning and Zoning Commission to represent an increase in development intensity; or
- vii. A substantial change in the layout of buildings.

6. **Final Plats**

To complete the platting process, the applicant need only to submit and record a Final Plat for the phase(s) under development in accordance with Figure 151-3.6-2.

- a. The PUD Final Plan and the Final Plat for the first phase(s) may be reviewed concurrently, at the option of the applicant.
- b. A note shall be included on the Final Plat stating: [Example:] “Rezoned to Residential (R-1, R-1A or R-1B) Zoning District with a Planned Unit Development (PUD) overlay.”
- c. A Final Plat shall be recorded for each phase of the plan after the infrastructure to be built by the developer has been constructed and approved, or adequate bonding or letter of credit submitted to the County.

7. **Appeals of Planned Unit Development District**

Any person aggrieved by a decision of the County Commission on a Planned Unit Development District (PUD) may present to the Circuit Court of Clay County a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the Court within 30 days of the date of the County Commission’s decision on the matter of Planned Unit Development District zoning approval.

151-3.9 Conditional Use Permits

The purpose of a Conditional Use Permit is to allow for acceptable uses in the Land Development Code; however, additional review and conditions are necessary for permitting the use. The use is restricted to the individual applicant and is not transferable to another. The County Commission may make specific requirements that are not explicitly detailed in the Land Development Code, as deemed necessary for the activity to be conducted on a given parcel of land. Conditional Use Permits are not transferable to another person or parcel of land.

A. Application Filing

Conditional Use Permit applications shall be submitted to the Planning and Zoning Department on forms available in the Planning and Zoning Department.

1. **Adjacent Property Owners**

The applicant for a proposed Conditional Use Permit shall provide the Planning and Zoning Department with a list, in both electronic and paper formats, of names and addresses of the owners of record of all property within 1,000 feet of the property in question, as specified by RSMo 64.645. A property abstractor, title company, registered surveyor, or similarly qualified person whose services have been secured by the applicant shall have originated such list.

2. **Water Supply Approval**

Written approval from the respective public water supply district (PWSD) or a municipal water supplier for the proposed project shall be submitted with the application. If water service from the PWSD is not available, this should be noted in writing from the district. If the project is not within the boundaries of any PWSD and not capable to be served by any other water supplier, arrangements shall be made in accordance with this chapter.

3. **Sanitary Sewer Approval**

Written approval of the project from the Clay County Health Department shall be submitted with the application. In some instances, written approval must be submitted at the time of application from the Missouri Department of Natural Resources (DNR) in addition to the approval of the County Health Department. If sanitary sewer service is to be provided from a sewer district or private sewer company, written approval of such service shall be provided from the service provider with the preliminary plat application.

4. **Clay County Highway Department Approval**
Written approval from the Clay County Highway Department of all roadways and accesses shall be submitted with the application.
5. **Missouri Department of Transportation (MoDOT) approval**
If the project abuts a State maintained highway, written approval from the MoDOT shall be submitted with the application.
6. **Legal Description**
One copy of a legal description of the property on which the use is to be located.
7. **Site Plan**
20 copies of a site plan for the property on which the use is to be located shall accompany Conditional Use Permit applications. The site plan shall be drawn to scale, on an 11" x 17" sheet of paper. Information to be shown on the site plan is indicated in Figure 151-3.9-1.

Figure 151-3.9-1: Information Required on All Conditional Use Permit Site Plans

1. Project address, boundaries, date, north arrow and scale of the plan.
2. Name and address of the owner of record, developer, and name, address and phone number of plan preparer, if different.
3. All existing lot lines, easements, and rights-of-way. Include area in acres or square feet, abutting land uses and structures.
4. The location and use of all existing and proposed buildings and structures within the development. Include all dimensions of height and floor area, and show all exterior entrances and all anticipated future additions and alterations. Show typical elevations and building materials.
5. The location of all present and proposed public and private ways, driveways, sidewalks, ramps, curbs and fences. Location, type, and screening details for all waste disposal containers shall also be shown.
6. Location of required parking areas including parking stalls, setbacks and loading and service areas.
7. The location, height, size, materials, and design of all proposed signage.
8. The location of all present and proposed utility systems including:
 - sewer or septic system;
 - water supply system;
 - telephone, cable and electrical systems; and
 - storm drainage system including existing and proposed drain lines, culverts, catch basins, head walls, end walls, hydrants, manholes, and drainage swells.
9. Existing and proposed topography shown at not more than 2-foot contour intervals. All elevations shall refer to USGS datum.
10. Zoning district boundaries adjacent to the site's perimeter shall be drawn and identified on the plan.
11. Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within 100 feet of the site.

8. Business Plan

A business plan for the proposed conditional use shall be submitted using the form provided by the Planning and Zoning Department. This plan shall include information as to the hours of operation, shipments, receiving and similar items that may have some affect on the adjacent property owners.

9. Public Hearing Notice

Written and Published notice of the Planning and Zoning Commission's public hearing shall be provided in accordance with Sec. 151-3.1H-1 and Sec. 151-3.1H-2.

10. Planning and Zoning Department's Review and Report

The Planning and Zoning Department shall review each proposed Conditional Use Permit and provide a report to the Planning and Zoning Commission.

11. Planning and Zoning Commission's Review and Recommendation

The Planning and Zoning Commission shall hold a public hearing on the proposed Conditional Use Permit and make a recommendation to the County Commission based on the Approval Criteria of Sec. 151-3.37F. The Planning and Zoning Commission's hearing shall be set for a date not later than 60 days after receipt of a complete application.

12. County Commission Review and Decision

After receiving the recommendation of the Planning and Zoning Commission, the County Commission shall take action on the Conditional Use Permit application based on the Approval Criteria of Sec. 151-3.7F.

13. Approval Criteria

A Conditional Use Permit shall not be approved unless the County Commission determines, based directly upon the particular evidence presented, that all of the following conditions exist:

- a. the proposed use complies with the intent of the Comprehensive Plan and general provisions of this Land Development Code, modified for the specific use request;
- b. the proposed use in its proposed location will not have a substantial adverse impact on the public health, safety or general welfare;
- c. the proposed use will not cause substantial injury to the value of other property in the vicinity;
- d. adequate access routes will be provided and designed to prevent traffic hazards and to minimize traffic congestion in public streets;
- e. adequate public safety, transportation and utility facilities/services will be available to serve the subject property while maintaining adequate levels of service for existing development; and
- f. the proposed use is compatible with adjacent uses in terms of scale, site design, and operating characteristics (i.e., hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts).

14. Conditions of Approval

In acting to approve a Conditional Use Permit, the Planning and Zoning Commission may recommend and the County Commission may approve conditions deemed necessary to eliminate or minimize any potential adverse impact upon other property in the area, or to carry out the general purpose and intent of this Land Development Code, so long as the condition relates to a situation created or aggravated by the proposed use and is roughly proportional to its impact. Such conditions may include site design requirements and time limitations on the Conditional Use Permit.

The CUP Lapse of Approval provisions do not apply to uses that do not require a building permit. (e.g. a plant nursery)

15. Lapse of Approval

If a building permit for an approved Conditional Use has not been issued within 18 months of the date that the Conditional Use Permit was approved by the County Commission, the Conditional Use Permit shall lapse and be of no further effect. The time frames of this subsection may be extended for up to 1 year by the County Commission if an extension request is filed with the Planning and Zoning Department prior to expiration of the Conditional Use Permit. (See also, Conditional Use Permit Revocation, Sec. 151-14.4F)

16. Successive Applications

- a. If the County Commission denies an application for a Conditional Use Permit, an application for the same or more intensive use shall not be accepted for 6 months from the date that the County Commission acted to deny the amendment.
- b. If the County Commission denies a Conditional Use Permit for a use first allowed in the I-1 or I-2 zoning districts, an application for the same or more intensive use on the subject parcel, whether the parcel is in its original configuration or expanded or reduced in area, shall not be accepted for 5 years from the date of the County Commission's action to deny the Conditional Use Permit.
 - i. The Planning and Zoning Director may permit a re-filing of a Conditional Use Permit for a use first allowed in I-1 or I-2 zoning after 6 months if the Planning and Zoning Director determines, based on clear and convincing evidence provided by the applicant, that a substantial change in circumstances has occurred since the County Commission denied the rezoning which is the result of new facts that were not discoverable by the applicant during the previous proceedings with the use of reasonable diligence or as a result of material facts which have arisen since the previous decision. Such showings must be made prior to acceptance of the application.
 - ii. The decision of the Planning and Zoning Director on a request to re-file a Conditional Use Permit for a use first allowed in I-1 or I-2 zoning must be provided in writing and forwarded to the applicant with a copy of the decision to the Planning and Zoning Commission within 30 days of the submission of an application. Any person aggrieved by a decision of the Planning and Zoning Director under this section may appeal the decision of the Planning and Zoning Director to the Board of Zoning Adjustment within 30 days of decision of the Planning and Zoning Director.
- c. **Appeals**

Any person aggrieved by a decision of the County Commission on a Conditional Use Permit may present to the Circuit Court of Clay County a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the Court within 30 days of the date of the County Commission's decision on the matter.

151-3.10 Sign Permits

This section sets out the procedures for review and approval of Sign Plans and Sign Permits for signs requiring permits under Sec. 151-12.

A. Sign Plans

1. **Applicability**

Sign Plan approval shall be required for any site containing or proposed to contain more than 1 sign. No Sign Permit shall be issued for a site that is subject to Sign Plan requirements until a Sign Plan has been approved. Temporary signs shall be exempt from sign plan requirements.

2. **Application Filing**

Sign Plan applications shall be submitted to the Building Official on forms available from the Building Official. In addition, a graphic shall be submitted that will give the location of the proposed sign(s) on the property measured in feet and inches, accurate dimensions of the proposed sign(s), type of construction proposed, lighting, language to appear on the sign, logos, and other information to illustrate the proposed sign.

3. **Staff Review and Action**

The Building Official shall review each proposed sign application in accordance with the Sign Plan review criteria set forth in Sec. 151-3.9A and act to approve, approve with conditions or deny the Sign Plan.

4. **Sign Plan Approval Criteria**

A Sign Plan may be approved only if the Building Official determines that all of the following approval criteria have been met:

- a. the Sign Plan complies with all applicable standards of this Land Development Code, including the sign regulations of Sec. 151-12;
- b. the Sign Plan is consistent with any approved or concurrently proposed PUD, subdivision or site plan for the site.

B. Individual Sign Permits

1. **Applicability**

Signs identified with a "P" in Table 151-12-1 shall be erected, installed or created only in accordance with a duly issued and valid sign permit. Sign permits shall be required for new signs, new sign structures and prior to changing the sign face on an existing sign structure.

2. **Application Filing**

Sign Permit applications shall be submitted to the Building Official on forms available from the Building Official.

3. **Staff Review and Action**

The Building Official shall review each proposed Sign Permit application for the purpose of determining whether the proposed sign complies with all applicable sign regulations of Sec. 151-12 and the Sign Plan, if applicable. Based on that review, the Building Official shall:

- a. Issue the Sign Permit, if the sign complies in every respect with the standards of Sec. 151-12 and the Sign Plan, if applicable; or

- b. Deny the sign permit if the sign fails in any way to comply with the standards of Sec. 151-12 or the applicable Sign Plan.

3. **Lapse of Approval/Inspections**

If an approved sign has not been erected or otherwise put in place within 6 months of the issuance of the Sign Permit, the Sign Permit shall lapse and be of no further effect. The applicant shall request that the Building Official inspect the sign at the end or following the end of the 6-month period following issuance of the Sign Permit. If, upon inspection, the construction is substantially incomplete, the Building Official shall give the property owner or tenant notice that the Sign Permit has lapsed. If, upon inspection, the construction is found to be substantially complete but not in full compliance with Sec. 151-12 or other applicable codes, the Building Official shall give the property owner or tenant notice of the deficiencies and shall allow an additional 30 days from the date of inspection for the deficiencies to be corrected. If the deficiencies are not corrected by such date, the Sign Permit shall lapse and the sign shall be removed immediately. The failure to remove sign for which permits have lapsed shall be unlawful.

151-3.11 Variances

When an applicant has a condition of development that requires a variance from the requirements of this Land Development Code, an application may be submitted to request a Variance from the Board of Zoning Adjustment.

A. Application Filing

Variance applications shall be submitted to the Planning and Zoning Department on forms available in the Planning and Zoning Department.

B. Public Hearing Notice

Written and Published notice of the Board of Zoning Adjustment's public hearing on the Variance request shall be provided in accordance with Sec. 151-3.1H-1 and Sec. 151-3.1H-2.

C. Board of Zoning Adjustment Action

The Board of Zoning Adjustment shall hold a public hearing on the proposed Variance and take final action based on the Approval Criteria of Sec. 151-3.11D.

D. Approval Criteria

1. **Use Variances**

A Variance that would have the effect of allowing a use that the underlying zoning district prohibits may be granted by the Board of Zoning Adjustment if the Board of Zoning Adjustment determines that all of the following conditions have been met:

- a. the requested Variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district and that are not a result of the owner's intentional action;
- b. the granting of the permit for the Variance will not be contrary to the public interest and will not adversely affect the rights of adjacent property owners or residents;
- c. the strict application of the provisions of which the Variance is requested will constitute a practical difficulty because the property cannot be used for an otherwise permitted use without coming into conflict with applicable site development standards; and
- d. the Variance desired will not adversely affect the public health, safety, or general welfare, nor destroy the intent of the *Comprehensive Plan*.

2. **Non-Use Variances**

A Variance that does not have the effect of allowing a use that the underlying zoning district prohibits may be granted by the Board of Zoning Adjustment if the Board of Zoning Adjustment determines that all of the following conditions have been met:

- a. the requested Variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district and that are not a result of the owner's intentional action;
- b. the granting of the permit for the Variance will not be contrary to the public interest and will not adversely affect the rights of adjacent property owners or residents;
- c. the strict application of the provisions of which a Variance is requested will constitute an unnecessary hardship upon the property owner represented in the application; and
- d. the Variance desired will not adversely affect the public health, safety, or general welfare, nor destroy the intent of the *Comprehensive Plan*.

3. **Conditions of Approval**

In acting to approve a Variance, the Board of Zoning Adjustment may impose conditions deemed necessary to eliminate or minimize any potential adverse impact upon other property in the area, or to carry out the general purpose and intent of this Land Development Code, so long as the condition relates to a situation created or aggravated by the proposed use and is roughly proportional to its impact. Such conditions may include site design requirements and time limitations on the Variance.

4. **Appeals**

Any person aggrieved by a decision of the Board of Zoning Adjustment on a Variance application may present to the Circuit Court of Clay County a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the Court within 30 days of the date of the Board of Zoning Adjustment's decision on the matter.

151-3.12 Vacations

This section sets out the required review and approval procedures for vacations of any street, avenue, road, alley, public easement, ingress/egress, utility easement, public square or common area included as part of a recorded plat, in accordance with RSMo 71.270.

A. Application Filing

Vacation applications shall be submitted to the Planning and Zoning Department on forms available in the Planning and Zoning Department. The application shall include evidence of the vacation application to all utility providers in the general area of the application. The application shall be made by all owners of lands adjoining on both sides of the street, avenue, road, alley, public easement, public square or common area sought to be vacated. If the application is not submitted by all such owners, that fact shall be noted on the application along with names and addresses of all adjoining owners who are not party to the application.

B. Planning and Zoning Department's Review and Report

The Planning and Zoning Department shall review each proposed Vacation application and provide a report to the Planning and Zoning Commission.

C. Public Hearing Notice

Written and Published notice of the County Commission's public hearing on the Vacation request shall be provided in accordance with Sec.151-3.1H-1 and Sec.151-3.1H-2.

D. Planning and Zoning Commission's Review and Recommendation

Within 30 days of receipt of a complete Vacation application, the Planning and Zoning Commission shall review the application and make a recommendation to the County Commission, based on the Approval Criteria of Sec.151-3.3F.

E. County Commission Review and Decision

After receiving the recommendation of the Planning and Zoning Commission, the County Commission shall take action on the application based on the Approval Criteria of Sec.151-3.3F.

F. Approval Criteria

A Vacation application shall be approved by the County Commission if they determine that all of following approval criteria have been met:

1. Due and legal notice has been provided as required by this section;
2. No private rights will be injured or endangered by the Vacation;
3. The public will suffer no loss or inconvenience from the Vacation; and
4. In justice to the applicant, the Vacation should be approved.

G. Easements

The county may retain or require easements in the vacated property if deemed necessary to protect the public welfare.

H. Recordation

Upon approval of a Vacation request, a certified copy of the approval shall be recorded in the office of the County Recorder of Deeds. The applicant shall pay any costs.

151-3.13 Written Interpretations

A. Application Filing

Applications for Written Interpretations of the provisions of this Land Development Code shall be submitted to the Planning and Zoning Department on forms available from the Planning and Zoning Department.

B. Planning and Zoning Director's Review and Decision

Within 30 days of receipt of a complete application for a Written Interpretation, the Planning and Zoning Director shall: (1) review and evaluate the application in light of the text of this Land Development Code, the Official Zoning Maps, the *Comprehensive Plan* and any other relevant documents; (2) consult with County Counsel and other staff as needed; and (3) render a written interpretation.

C. Form

The interpretation shall be provided to the applicant in writing and shall be filed in the official record of interpretation.

D. Official Record of Interpretations

An official record of interpretations shall be maintained and made available for public inspection in the Planning and Zoning Department office during normal business hours.

E. Appeals

Appeals of the Planning and Zoning Director's written interpretation may be taken to the Board of Zoning Adjustment in accordance with the procedures of Sec. 151-3.14.

151-3.14 Appeals of Administrative Decisions

A. Authority

The Board of Zoning Adjustment shall be authorized to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the administration or enforcement of this Land Development Code.

B. Right to Appeal

Appeals of Administrative Decisions may be filed within 30 days by any person aggrieved by a decision of an administrative official in the administration or enforcement of this Land Development Code.

C. Application Filing

Applications for Appeals of Administrative Decisions shall be submitted to the Planning and Zoning Department on forms available in the Planning and Zoning Department. Appeals of Administrative Decisions shall be filed within 30 days of the date of the decision being appealed.

D. Effect of Filing

The filing of a complete application for appeal stays all proceedings in furtherance of the action appealed, unless the official whose decision is being appealed certifies to the Board of Zoning Adjustment, after the appeal is filed, that, because of facts stated in the certification, a stay would cause immediate peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order that may be granted by the Board of Zoning Adjustment, or by a court of record.

E. Record of Administrative Decision

The official whose decision is being appealed shall transmit to the Board of Zoning Adjustment all papers constituting the record upon which the action appealed is taken.

F. Notice

Published notice of the Board of Zoning Adjustment' public hearing shall be provided in accordance with the requirements of Sec. 151-3.1H-2.

G. Board of Zoning Adjustment's Review and Action

1. The Board of Zoning Adjustment shall hold a public hearing on the Appeal.
2. In acting on the appeal, the Board of Zoning Adjustment shall grant to the administrative official's decision a presumption of correctness, placing the burden of persuasion of error on the appellant.
3. In exercising the appeal power, the Board of Zoning Adjustment shall have all the powers of the official from whom the appeal is taken, and the Board of Zoning Adjustment may reverse or affirm wholly or partly or may modify the decision being appealed.
4. If the Board of Zoning Adjustment determines that it is necessary to obtain additional evidence in order to resolve the matter, it shall remand the appeal to the official from whom the appeal is taken, with directions to obtain such evidence and to reconsider the decision in light of such evidence.

H. Approval Criteria

An appeal shall be sustained only if the Board of Zoning Adjustment determines that the administrative official erred.

I. Appeals

Any person aggrieved by a decision of the Board of Zoning Adjustment on an Appeal of Administrative Decision may present to the Circuit Court of Clay County a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the Court within 30 days of the date of the Board of Zoning Adjustment's decision on the matter.

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