

CHAPTER 1

TITLE, PURPOSE & ENACTMENT

SECTION 101 GENERAL

101.1 Title. these regulations shall be known and may be cited as the *Land Development Code of Fulton, Mississippi*, hereinafter referred to as "these Regulations."

101.2 Policy.

1. It is the intent of the City of Fulton Board of Aldermen that the Land Development Code shall be consistent with the adopted Comprehensive Plan and any amendments thereof and with any supplemental land use and planning policies of the City of Fulton, Mississippi.
2. It is declared to be the policy of the City of Fulton, Mississippi to consider the subdivision of land and its subsequent development as subject to the control of the Municipality, pursuant to the Fulton Comprehensive Plan and these regulations.
3. Land to be subdivided shall be of such character that it can be used safely for building purposes, and shall not be subdivided until adequate facilities and improvements such as drainage, water and sewer are provided, or a performance bond is filed to assure that the required improvements will be made by the developer.
4. Proposed public improvements shall conform with and be related to the proposals shown in the comprehensive plan, capital improvement program, and development programs of Fulton, Mississippi, and it is intended that these regulations shall supplement and facilitate the enforcement of the provisions and standards contained in the Building Code, Property Maintenance Code, the Comprehensive Plan, and other related development codes of the City of Fulton, Mississippi.

101.3 Scope. These regulations are adopted as minimum requirements for the regulation and control of land subdivision and to establish procedures governing the filing and approval of land subdivision plats and data; to establish minimum standards governing streets, utilities, and other necessary improvements; to ensure the proper coordination of future streets and their development with existing or planned streets; and to provide an ability to vary these regulations through the approval of the governing body.

101.4 Authority. These regulations are instated pursuant to authority granted to the Board of Aldermen by Section 17-1-1 through 17-1-27 of the Mississippi Code, 1972, as amended.

101.5 Public Purpose. Regulation of the development of land and the attachment of reasonable conditions to development and land subdivision is an exercise of public police power delegated by the state to the City of Fulton, Mississippi pursuant to Title 17 of the Mississippi Code of 1972, to attain the objectives of the Comprehensive Plan through the regulation of location, height, number of stories, size of buildings and other structures, the density and distribution of population, size of yards and other open spaces, the use of buildings, structures, and land for commercial, industrial, residential and other purposes. Developers shall also be in compliance with conditions established by the Board of Aldermen for design, dedication, improvement, and restrictive use of land to conform to the physical and economic development of the City of Fulton, Mississippi and the health, safety, and general welfare of the future lot owners of subdivisions and of the City of Fulton, generally.

**SECTION
102**

APPLICABILITY

102.1 General. These regulations shall apply to all land areas of the City of Fulton, Mississippi. The use of all land and any buildings or structures located on the land and the construction, reconstruction, alteration, expansion, or relocation of any building or structure upon the land shall conform to all regulations applicable to the district in which the land is located as provided herein. No land, building, structure or premises shall be for any purpose or in any manner other than is permitted in the district in which such land, building, structure or premises is located except as provided. The regulations and provisions established herein for each district shall apply uniformly within each district of the same name and shall apply uniformly to each class or type of building, structure, use, or land therein except as otherwise provided. These regulations shall govern all subdivisions of land within the City of Fulton, Mississippi. The Design and Construction Standards shall apply to any and all public infrastructure. The provisions of these regulations shall also be applied to all applications for a change in zoning classification from and after the date of adoption of the *Land Development Code*.

102.2 Compliance with the Regulations. The regulations set by these regulations within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided:

1. No building shall be erected, converted, placed, enlarged, reconstructed, or structurally altered, nor shall any building or land be used except for a purpose and in the manner permitted in the district in which the building or land is located.
2. No land required for yards, open spaces, or off-street parking or loading spaces about an existing building or any building hereafter erected or structurally altered shall be considered as required yard of lot area for more than one (1) building.
3. Every building hereafter erected or structurally altered shall be located on an approved lot.

4. No building shall be erected or structurally altered to the extent specifically provided hereinafter except in conformity with these regulations.

102.3 Application of other codes. The provision of these regulations shall supplement the laws of the State of Mississippi, other codes, ordinances, rules and regulations adopted by the Board of Aldermen. No site plan, building permit, or subdivision plat shall be approved for issuance and/or recording until the requirements of these regulations have been met and certification thereof has been endorsed by the appropriate reviewing authority. Whenever the requirements of these regulations are at variance with the requirements of other lawfully adopted rules, regulations, or ordinances, the most restrictive or that imposing the highest standard shall govern. These regulations shall be interpreted as minimum requirements. Furthermore, no person shall use or occupy a building, structure or land within the City for an activity which requires a federal, and/or State of Mississippi license until said license is obtained from the appropriate authorities.

102.4 Validity and Separability. If, for any reason, any clause, provision or portion of these regulations shall be held invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect validity or legality of these regulations as a whole, or any part thereof, other than the part so held to be invalid. These regulations shall not abate any legal action pending under prior regulations and shall not interfere with other applicable laws and regulations or with deed restrictions.

102.5 Saving Provision. These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the City under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights adopted by any person, firm, or corporation by lawful action of the City except as shall be expressly provided for in these regulations.

102.6 Classification of Annexed Property. All annexations of land shall be in an R-1 single family residential zone unless otherwise classified by the Board of Aldermen, for a period of time not to exceed one (1) year from the effective date of the Ordinance annexing said property. Within this one (1) year period of time, the Board of Aldermen shall instruct the Planning Commission to study and make recommendations concerning the use of land within said annexed area to promote the general welfare, and upon receipt of such recommendations the Board of Aldermen shall establish the district classification of said property; provided, however, that this shall not be construed as preventing the Board of Aldermen from establishing the district classification at the time of said annexation.

102.7 Enactment. These regulations shall become effective from and after the date of their approval, adoption, or amendment by the Board of Aldermen after public hearing and certification to the Municipal Clerk as required by Title 17 of the Mississippi Code of 1972. Henceforth, any other regulations previously adopted by the City of Fulton, Mississippi shall be deemed to be repealed. These regulations shall in no way affect any building permit, site plan, development or subdivision having received previous or preliminary plan approval prior to the effective date of these regulations or any amendment thereto, provided, however, that no changes to the building permit, site plan or preliminary plan, as approved, are introduced by the developer.

CHAPTER 2 ADMINISTRATION

SECTION GENERAL 201

201.1 Designation of Planning Director. The Mayor, hereinafter referred to as the “Planning Director”, or their designee, shall administer, enforce, and implement the provisions of these regulations. Decision making authority shall be shared between the Planning Director, authorized staff, the Planning Commission, and Board of Aldermen as described herein.

201.1.1 Rule-making authority. The Planning Director shall have authority as necessary in the interest of public health, safety and general welfare, to adopt and promulgate rules and procedures; to interpret and implement the provisions of these regulations; and to secure the intent thereof. Such rules shall not have the effect of waiving any requirements specifically required by these regulations, or of violating accepted engineering methods involving public safety.

201.1.2 Inspections. The Planning Director shall accept reports of inspection by approved agencies or individuals, as described in these regulations. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Planning Director is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

201.1.3 Notices and orders. The Planning Director is hereby authorized to issue all necessary notices, orders, and municipal court summonses to ensure compliance with these regulations.

201.1.4 Department records. The Planning Director shall keep official records of all business and activities specified in the provisions of these regulations. Such records shall be retained in the official records as required by State statute.

201.1.5 Application Review. The Planning Director shall review all applications required by these regulations prior to scheduling their approval with the Site Plan Review Committee, or Planning Commission, as required herein. Upon verification that all required documentation required by these regulations have been provided by the applicant, the Planning Director shall place the site plan review and/or preliminary plat review on the next available agenda of the Site Plan Review Committee or Planning Commission, as appropriate.

201.1.6 Liaison between review and approval bodies. The Planning Director shall be responsible for forwarding all documentation required by these regulations to the appropriate review staff and decision making bodies as described in these regulations. The Planning Director shall be responsible for any

communications to the governing authorities and applicant regarding hearings, corrections, modifications, approval or denial of applications, and other such communications as are necessary during the subdivision review process.

201.2 The Fulton Planning Commission. The Fulton Planning Commission is hereby established and shall hereby be designated the administrative body of these regulations. The Planning Commission, as created and appointed by the Board of Aldermen, and the Planning Director and staff as appointed by the Board of Aldermen, shall have the powers and duties as provided hereinafter set forth.

201.2.1 Membership. The Fulton Planning Commission shall be composed of seven (7) members, residents of the City of Fulton, of which, one (1) shall be appointed by each Alderman from their respective ward, one (1) shall be appointed from at-large by the alderman-at-large, and two (2) shall be appointed from at-large by the Mayor. All such appointments shall be approved by the Board of Aldermen for terms of four (4) years to run concurrently with the terms of the members of the Board of Aldermen.

201.2.2 Procedure. Meetings of the Planning Commission shall be held at a regular time, day and place each month and at other such times as the Chairman or Commission may determine. The Chairman may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Planning Commission shall keep minutes of its meetings and taped transactions for the duration of the period of appeal. Four (4) members of the Planning Commission shall constitute a quorum for transaction of business. The Planning Commission may adopt necessary rules and regulations to govern the performance of their duties.

201.2.3 Public Hearings. Where the law requires a public hearing to be held before the Board of Aldermen on any matter in which the Planning Commission is authorized to make recommendations to the Board of Aldermen, such public hearing shall be held thereon before the Planning Commission after notice duly published in the manner and time required by law.

201.2.4 Applications. Applications for variances, exceptions or changes to the provisions of those regulations shall be made to the Planning Director at least thirty (30) days prior to a regularly scheduled meeting of the Planning Commission in order to be heard at said meeting. The Planning Director shall have the right to refuse to accept a reapplication for the same or a similar variance, exception or change in zoning after an application has been heard and denied, or granted and reversed on appeal, unless there is a substantial change in

1. the proposed use or the plans for the use;
2. the circumstances of the conditions affecting the property; or
3. a combination of those two factors.

201.2.5 Powers. The Planning Commission shall have the following powers to hear and recommend action relative to:

1. Special Exceptions for each zoning district when the use is not specified in Uses Permitted in that district.
2. Amendments to the Official Zoning Map.
3. Variances.
4. Zone Changes.
5. Plat Approvals.
6. Other matters delegated by the Board of Aldermen.

201.3 Site Plan Review Committee. A Site Plan Review Committee is hereby established. The Site Plan Review Committee shall be chaired by the Planning Director, and shall consist of the following:

1. Planning Director
2. City Engineer, or their alternate
3. Fire Chief, or their alternate
4. Police Chief, or their alternate
5. Public Works Director, or their alternate
6. Street Department Director, or their alternate

201.4 Liability. The Planning Director, Planning Commissioners, municipal employees, or consultants charged with the enforcement of these regulations, while acting for the jurisdiction, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of official duties.

Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of these regulations shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The Planning Director or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of these regulations; and any officer of the municipality, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

201.5 Amendments. The Board of Aldermen may, from time to time, on its own motion, or on petition from a property owner, or on recommendation of the Planning Commission, amend the regulations and districts herein established. No change in regulations, restrictions or district boundaries shall become effective until after a public hearing held in relation thereto by the Planning Commission at which parties in interest and citizens shall have an opportunity to be heard. Every such proposed amendment shall be referred to the Planning Commission for report. When an application has been made to the Planning Commission for the rezoning of any area within a district, the applicant shall, as a condition precedent to the holding of a public hearing on such application, fully comply with the procedures set out in Section 202 for public hearing procedure.

201.6 Expiration and Extension. Failure to comply with stated time periods of these regulations shall result in the expiration of the application and associated Planning Commission approvals. Before expiration, the developer may provide a letter and extension fee stating why these time periods cannot be met and requesting their extension. The developer is solely responsible for knowing expiration dates and meeting or extending them in accordance with these regulations. The Planning Commission shall have no duty, obligation or responsibility to remind or notify subdividers of approaching expiration dates.

201.7 Fees. Fees, charges, expenses and collection procedures may be established by the Board of Aldermen to defray costs incurred through the administration and enforcement of these regulations as to building inspections, code enforcement, public hearings, notices, reviews and monitoring land development. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal. The developer shall be solely responsible for submittal of required documents and payment of fees to the City of Fulton.

SECTION 202

PUBLIC HEARINGS

202.1 Procedure. Whenever, in these regulations, reference is made to this section regarding procedures for public hearings and applications for same, the following is required.

1. An application shall be made to the City Clerk and the following shall be furnished by the applicant unless otherwise noted:
 - A. Name and address of applicant, who shall be the owner of the property or have a vested interest in the property, along with written proof of ownership or vested interest.
 - B. The present zoning classification (will be furnished by the Planning Department).
 - C. The proposed zoning classification or use requested.
 - D. A legal description of the property including a current or previous survey, if accurate.

- E. A plot plan showing the location and intended use of the site, and the present use of the property and all adjoining properties.
 - F. Any fees or charges established by the Planning Commission to cover expenses incidental to the application.
 - G. Any other material that the Planning Commission feels is pertinent to the application.
- 2. The Planning Commission shall hold a public hearing within sixty (60) days of the date of filing of the application.
 - 3. Notice shall be posted on the subject property at least fifteen (15) days prior to the date of said hearing, and shall show the time, date and place of hearing, the reason for the hearing,
 - 4. At least fifteen (15) day's notice of the time and place of hearing shall be published in a paper of general circulation in the City of Fulton.
 - 5. If the applicant or their representative fails to appear at the public hearing, the Planning Commission may deny the application.
 - 6. The Planning Commission shall within thirty (30) days of the final hearing, transmit to the Board of Aldermen its report, findings, decision and/or recommendation.

SECTION 203

VIOLATIONS

203.1 Unlawful Acts. It shall be unlawful to transfer, offer for sale, or lease any lot, parcel or tract of land from a plat of a subdivision before such plat has been recorded in the office of the Chancery Clerk in accordance with these regulations, or otherwise violate these regulations.

Each lot, parcel, or tract of land sold or otherwise conveyed in violation of these regulations shall constitute a separate offense. The description of such lot, parcel, or tract by metes and bounds in the deed or transfer shall not serve to exempt the seller from the penalties provided in this section.

203.2 Prosecution of Violation. Any person, individual, corporation, company, partnership, association or any other entity failing to comply with the requirements of these regulations shall be issued a summons to appear in Municipal Court. Such violations shall be considered a misdemeanor, and shall be deemed a strict liability offense. Penalties for violations shall be as described in Section 203.3.

203.3 Violation Penalties. Any person, individual, corporation, company, partnership, association or any other entity failing to comply with these regulations or any of the

requirements thereof or otherwise violating these regulations or any of its provisions shall, upon being found guilty, pay a fine not exceeding One Thousand Dollars (\$1,000) or imprisonment not exceeding ninety (90) days, or both. In the case of continuing violations without reasonable effort on the part of a person to correct same, each day the violation continues after a conviction shall be a separate offense and the violator shall be fined one hundred dollars (\$100.00) per day until the violation is brought into compliance.

203.4 Abatement of Violation. In addition to the penalties set out herein, no building permit shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of these regulations, nor shall the city have any obligation to issue certificates of occupancy or to extend utility services to any parcel created in violation of these regulations.

Any condition caused or permitted to exist in violation of the provisions of these regulations shall be deemed a public nuisance and may be abated by the City as provided by law.

The Municipal Judge has the authority to order any remedy to bring the violation into compliance in addition to assessing fines.

SECTION 204

MEANS OF APPEAL

204.1 Application for appeal. Any person directly affected by a decision of the Planning Director, Planning Commission, or Site Plan Review Committee issued under these regulations shall have the right to appeal to the Board of Aldermen, provided that a written application for appeal is filed within seven (7) days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of these regulations or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of these regulations do not fully apply, or the requirements of these regulations are adequately satisfied by other means.

Appeals of decisions by the Board of Aldermen shall be in the manner prescribed by State Statute.

204.2 Open hearing. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than half of the board membership.

204.2.1 Procedure. The board shall adopt and make available to the public through the clerk procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

204.3 Board decision. The board shall modify or reverse the decision of the Planning Director or Planning Commission, as appropriate, only by a majority vote of a quorum of the members of the Board of Aldermen.

204.3.1 Records and copies. The decision of the Board of Aldermen shall be recorded. Copies shall be furnished to the appellant and to the Planning Director.

204.3.2 Administration. The Planning Director shall take immediate action in accordance with the decision of the Board of Aldermen

204.4 Court review. All appeals of decisions made under the provisions of these regulations, by the Board of Aldermen, shall be made with the Circuit Court in the prescribed time and pursuant to Mississippi law.

204.5 Stays of enforcement. Appeals shall stay the enforcement of the decision under appeal until the appeal is resolved.

**SECTION
205**

WITHDRAWAL OF APPLICATION OR APPEALS

1. A letter withdrawing an application for a public hearing or an appeal shall be submitted by the applicant, or their representative, no later than seven (7) days prior to the hearing.
2. An applicant cannot resubmit an application for a public hearing within ninety (90) days of the date of withdrawal.
3. If a timely withdrawal is made no later than seven (7) days prior to the hearing, the Planning Director may waive the ninety (90) day re-submittal period, at their discretion.

CHAPTER 3

PROCEDURES AND APPROVALS

SECTION GENERAL 301

301. 1 General Procedure. Before any special exception, variance, rezoning, subdivision of land, or development of large-scale projects occurs the owner of the property, or their authorized agent, shall apply for and secure approval of the proposed action in accordance with the following procedures:

- 1. Special Exception:** Also referred to as a “conditional use”, or a “use upon review”, Special Exceptions provide for the location of certain uses in a zoning district which have the potential for impacts on the surrounding neighborhood and City. Such uses require individual consideration of their location, design, and operation at the proposed location. Such requests shall be processed by the Planning Commission.
- 2. Variance:** The variance process is used to formally adjust distances and measurements required by these regulations, such as the width of a setback, lot dimensions or area, fence height, etc. Such requests shall be processed by the Planning Commission.
- 3. Zoning Change (Re-Zoning):** Changing the existing zoning classification of a parcel or group of parcels involves a public hearing and recommendation by the Planning Commission and decision by the Board of Aldermen.
- 4. Site Plan Review.** Specified developments require a formal review and approval by the Site Plan Review Committee prior to the issuance of building permits. The purpose of this review is to ensure compliance with all zoning, building code, and other related development ordinances, coordinate the involvement of varied municipal departments, and to expedite the processing of permit applications on large scale developments.
- 5. Lot Split or Minor Subdivision:** These shall be processed by the Planning Director and require an accurate and clearly legible drawing of the metes and bounds survey and a deed with a legal description, and the appropriate fees (if applicable).
- 6. Platted Subdivision or Major Subdivision:** These involve approval actions by the Planning Commission and the Board of Aldermen. The approval process for a major development, whether a subdivision, cluster development, or planned unit development (PUD), is essentially the same, and includes four principal steps: a sketch plan, a preliminary plat, infrastructure construction plan, and a final plat.
- 7. Combining Existing Tax Parcels.** Combining entire existing tax parcels can be accomplished by the County Chancery Clerk without Planning Commission

approval if the existing parcels have the same deed reference, are adjacent to each other, are not separated by a public roadway, and acreage of all parcels is combined into a single tax parcel, by filling out the appropriate paperwork at the Chancery Clerk's office listing the tax parcel numbers to be combined.

8. Resubdivision of Recorded Plat. A developer proposing the re-subdivision of a plat previously recorded by the Chancery Clerk shall follow the same procedures required for a major subdivision.

9. Plat of Streets, Common Spaces, and Public Easements. Proposals for the platting of street openings, widenings, and extensions; platting of open spaces for common use by owners, occupants, or leaseholders; and easements for the extension and maintenance of public sewer, storm drainage, or other public utilities shall follow the same procedures required for a major subdivision.

301.2. Plats Exempted. The following actions are exempt from the subdivision platting requirements of these regulations:

- 1. Agricultural Tracts.** Division of a tract of land proposed to continue in its present use as agricultural, farming and growing of trees is exempted from the plat review and approval procedures described in these regulations, regardless of its location in the City, provided that such division does not result in a nonconforming lot as described herein.
- 2. Conveyance among immediate family.** The plat review and approval procedures described within these regulations shall not apply to any conveyance of land between immediate family members, provided that dedication, vacation or reservation of any street, alley or public/private utility easement are not involved.

**SECTION
302**

SPECIAL EXCEPTION

302.1 Purpose. The classification of a Special Exception Use is established to provide for the location of those uses which are generally compatible with the other land uses permitted in a zoning district but which, because of their unique characteristics or potential impacts on the surrounding neighborhood and the City, require individual consideration of their location, design, configuration, and/or operation at the location proposed. Such individual consideration may also call for the imposition of unique conditions to ensure that the use is appropriate at a specific location.

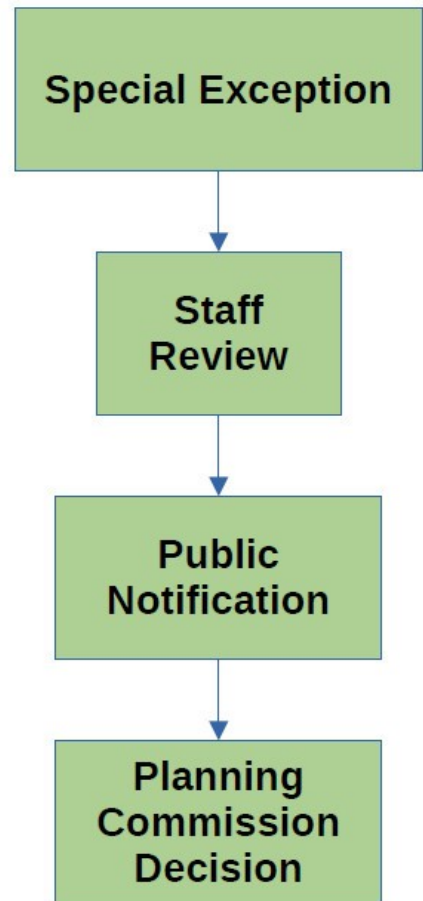
Any use designated in these regulations as a Special Exception Use shall be reviewed and considered for approval by the Planning Commission.

302.2 Uses Not Specifically Defined. For all Zoning Districts, any use not specifically defined in these regulations must apply for a Special Exception to the Planning Commission in accordance with these regulations.

302.3 Administrative Procedure and Approval.

302.3.1 Application Requirements. Before filing an application, the applicant is encouraged to discuss the proposed work with the Planning Director to become familiar with the applicable requirements and approval procedures required by these regulations. A Special Exception application available at City Hall shall be filed by the landowner or designated representative. A complete application shall contain the following:

- A. An application for approval of a Special Exception Use shall be filed with the City Clerk on a form prescribed by the City, along with the fee prescribed by the Board of Aldermen.
- B. The application shall include such information and plans as required on the application form.
- C. The Planning Director shall determine whether the application is complete. If the Planning Director determines that the application is not complete, then they shall notify the applicant of any deficiencies and shall take no further steps to process the application until the applicant remedies the deficiencies. Once the application is complete, the Planning Director shall schedule the application for consideration at a **public hearing** before the Planning Commission.
- D. After determining that the application is complete, the Planning Director shall transmit to the Planning Commission prior to the hearing on the application, all applications, plans, and other records pertaining to the proposed Special Exception use.



**ILLUSTRATION 302.3 - SPECIAL
EXCEPTION APPROVAL
PROCESS**

302.3.2 Site Plan Review Required. All applications for Special Exceptions shall be reviewed by the Site Plan Review Committee for compliance with these regulations and other applicable ordinances, statutes, and laws. Upon satisfactory review by the Site Plan Review Committee, the Special Exception application shall be forwarded to the Planning Commission for a decision.

302.3.3 Public Hearing Required. The Planning Commission, prior to acting on a Special Exception application, shall hold a public hearing as described in Section 202.

302.3.4 Action by Planning Commission. The Planning Commission shall review the Special Exception application and render a decision to table, approve, deny, or approve with changes or conditions.

302.3.4.1 Standards of Review. The Planning Commission shall not approve the proposed Special Exception unless and until they make the following findings, based on evidence and testimony received at the public hearing or otherwise appearing in the record of the case:

1. That the proposed use or development of the land will not materially endanger the public health or safety;
2. That the proposed use is reasonably necessary for the public health or general welfare, such as by enhancing the successful operation of the surrounding area in its basic community functions or by providing an essential service to the community or region;
3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property;
4. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located;
5. That the proposed use or development of the land will generally conform with the Comprehensive Plan and other official plans adopted by the City;
6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal and similar facilities;
7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.
8. That the existence of a nonconforming use of the neighboring land, buildings, or structures in the same district or of the permitted or nonconforming uses in other districts shall not constitute a reason for the required exception.

The burden of the proof shall be on the applicant to prove that these criteria are satisfied.

302.3.4.2 Approval with Changes or Conditions. In approving the Special Exception, the Planning commission may attach such conditions to the

approval as it deems necessary to meet the standards set forth for the proposed Special Exception in these regulations, and to protect the health, safety, and general welfare of the public. All such conditions shall be stated in the motion approving the application.

302.3.4.2.1 Nature of Conditions. Such conditions may be stricter than any requirement or limitation stated elsewhere in these regulations for the proposed use. Such conditions may include, but are not limited to the following: limitations on the size, bulk, and location of structures; requirements for landscaping, signs, and outdoor lighting; the provision of adequate ingress and egress; dedication of rights-of-way for streets or utilities; provision of recreational space and facilities; limitations on the duration of the approval and the time period within which the use will be developed; limitations on hours of operation; limitations on the transfer of such approval to a successor-in-interest or lessee of the property; and the mitigation of environmental impacts.

302.3.3.2.2 Changes to Conditions of Approval. During the Site Plan Review process, or during any other permitting, review, or approval procedure required by these regulations or any other applicable regulation, it becomes necessary to change the conditions of approval of the Special Exception, such change to the conditions of approval shall first be approved by the Planning Commission. Any application for approval of such a change shall be filed, processed, reviewed, and approved or denied as a Special Exception described in this section.

302.3.5 Effect of Approval or Denial.

- 1. Subsequent permits and approvals.** Approval of the application for Special Exception Use authorizes the applicant to apply for Site Plan Approval from the Planning Director and such other permits or approvals which the Planning Commission and/or Board of Aldermen may require for the proposed development. The Planning Director shall review applications for these permits for compliance with the terms of the Special Exception approval. A permit, certificate, or other approval shall be issued and valid only for work which complies with the terms of the Special Exception approval.
- 2. Transferability of approval.** A Special Exception approval is not transferrable from one property to another, but may be transferred to a successor-in-interest to the property, unless specifically prohibited.
- 3. Re-submission of denied applications.** No application for approval of a Special Exception shall be filed with or accepted by the Planning Director which is identical or substantially like an application which has been denied within one (1) year. This waiting period requirement may be waived in an individual case, for good cause shown, at the discretion of the Planning Director.

- 4. Expiration of Approval.** Any approved Special Exception which has not been exercised shall expire three (3) years after the date of approval by the Planning Commission.

**SECTION
303**

VARIANCE

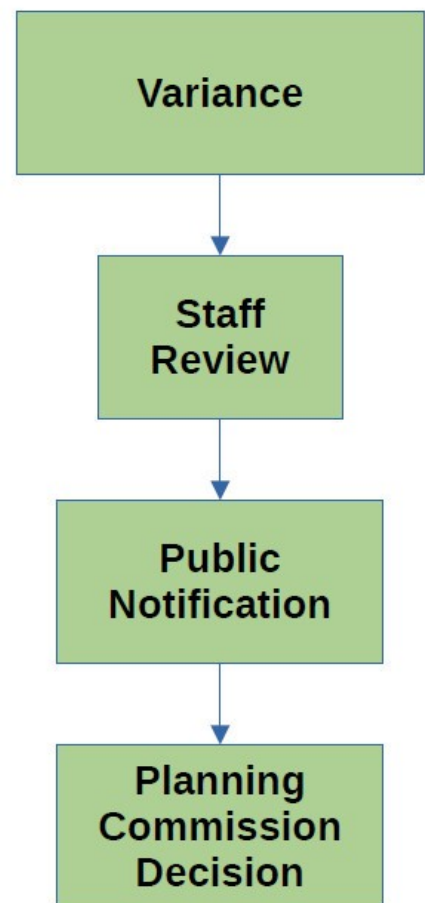
303.1 Purpose. Variances are intended to provide limited relief from the requirements of these regulations in those cases where strict application of a requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise allowed under these regulations. It is not intended that Variances be granted merely to remove inconveniences or financial burdens that the requirements of these regulations may impose on property owners in general. Rather, it is intended to provide relief where the requirements of these regulations render the land difficult or impossible to use because of some unique physical attribute of the property itself or some other factor unique to the property for which the Variance is requested.

303.2 Provisions Which May Not Be Varied. In no event shall the Planning Commission grant a Variance for a property which would allow a use that is not otherwise allowed in a zoning district or which would change the zoning district classification for a portion or all of the property.

303.3 Administrative Procedure and Approval.

303.3.1 Application Requirements. Before filing an application, the applicant is encouraged to discuss the proposed variance with the Planning Director to become familiar with the applicable requirements and approval procedures required by these regulations. A Variance application available at City Hall shall be filed by the landowner or designated representative. A complete application shall contain the following:

- A.** An application for approval of a Variance shall be filed with the City Clerk on a form prescribed by the City, along with the fee prescribed by the Board of Aldermen.
- B.** The application shall include such information and plans as required on the application form.



**ILLUSTRATION 303.3 -
VARIANCE APPROVAL PROCESS**

- C. The Planning Director shall determine whether the application is complete. If the Planning Director determines that the application is not complete, then they shall notify the applicant of any deficiencies and shall take no further steps to process the application until the applicant remedies the deficiencies. Once the application is complete, the Planning Director shall schedule the application for consideration at a **public hearing** before the Planning Commission.
- D. After determining that the application is complete, the Planning Director shall transmit to the Planning Commission prior to the hearing on the application, all applications, plans, and other records pertaining to the proposed Variance.

303.3.2 Site Plan Review Required. All applications for Variances shall be reviewed by the Site Plan Review Committee for compliance with these regulations and other applicable ordinances, statutes, and laws. Upon satisfactory review by the Site Plan Review Committee, the Variance application shall be forwarded to the Planning Commission for a decision.

303.3.3 Public Hearing Required. The Planning Commission, prior to acting on a Variance application, shall hold a public hearing as described in Section 202.

303.3.4 Action by Planning Commission. The Planning Commission shall review the Variance application and render a decision to table, approve, or deny.

303.3.4.1 Standards of Review. The Planning Commission shall not grant a Variance unless it makes the following findings:

1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings located in the same zoning district;
2. That the literal interpretation and strict enforcement of the provision to be varied would deprive the applicant of rights commonly enjoyed by other properties located in the same zoning district under the terms of these regulations;
3. That the special conditions and circumstances do not result from the actions of the applicant; and
4. That granting the proposed Variance will not confer on the applicant any special privilege that these regulations deny to other land, structures, or buildings located in the same zoning district.

The burden of the proof shall be on the applicant to prove that these criteria are satisfied.

303.3.5 Effect of Approval or Denial.

- 1. Subsequent permits and approvals.** Approval of the Variance authorizes the applicant to apply for Site Plan Approval from the Planning Director and such other permits or approvals which the Planning Commission and/or Board of Aldermen may require for the proposed development. The Planning Director shall review applications for these permits for consistency with the Variance granted to the applicant. A permit, certificate, or other approval shall be issued and valid only for work which complies with the terms of the approved Variance.
- 2. Re-submission of denied applications.** No application for approval of a Variance shall be filed with or accepted by the Planning Director which is identical or substantially like an application which has been denied within one (1) year. This waiting period requirement may be waived in an individual case, for good cause shown, at the discretion of the Planning Director.
- 3. Expiration of Approval.** Any approved Variance which has not been exercised shall expire three (3) years after the date of approval by the Planning Commission.

SECTION 304

ZONING CHANGE (REZONING)

304.1 Purpose. Zoning Changes are intended to make adjustments to the Official Zoning Map that are necessary in light of changed conditions or changes in public policy, or otherwise necessary to advance the general welfare of the City. The purpose is not to relieve particular hardships, nor is it to confer special privileges or rights on any person.

304.2 Initiation of Zoning Changes. An amendment to the Official Zoning Map may be initiated by the Board of Aldermen or by any owner of a legal or equitable interest in land located in the City. Rezoning by the Board of Aldermen may require an amendment to the Comprehensive Plan, a comprehensive rezoning, a correction to the Official Zoning Map, or the adoption of a new zoning map.

304.3 Administrative Procedure and Approval.

304.3.1 Application Requirements. Before filing an application, the applicant is encouraged to discuss the proposed Zoning Change with the Planning Director to become familiar with the applicable requirements and approval procedures required by these regulations. A Zoning Change application available at City Hall shall be filed by the landowner or designated representative. A complete application shall contain the following:

- 1.** An application for approval of a Zoning Change shall be filed with the City Clerk on a form prescribed by the City, along with the fee prescribed by the Board of Aldermen.

2. The application shall include such information and plans as required on the application form.
3. The Planning Director shall determine whether the application is complete. If the Planning Director determines that the application is not complete, then they shall notify the applicant of any deficiencies and shall take no further steps to process the application until the applicant remedies the deficiencies. Once the application is complete, the Planning Director shall schedule the application for consideration at a **public hearing** before the Planning Commission.
4. After determining that the application is complete, the Planning Director shall transmit to the Planning Commission prior to the hearing on the application, all applications, plans, and other records pertaining to the proposed Zoning Change.

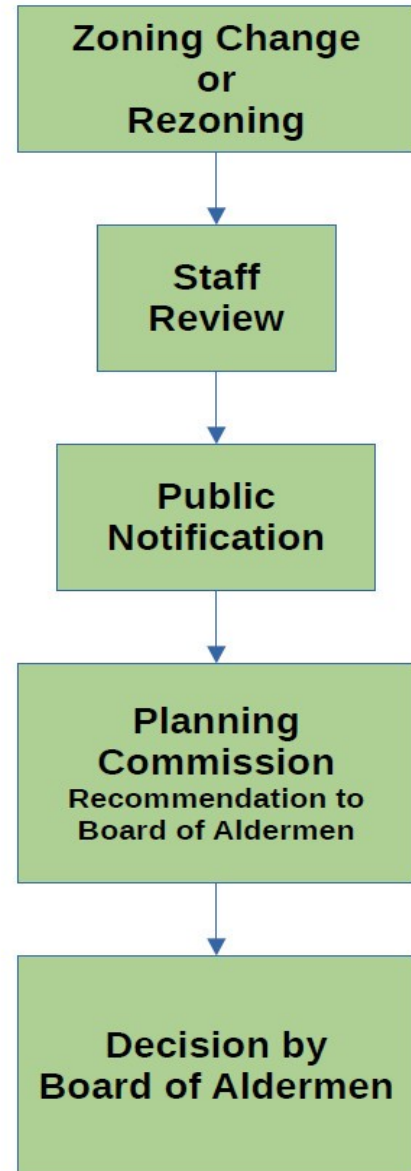


ILLUSTRATION 304.3 – ZONING CHANGE APPROVAL PROCESS

304.3.2 Public Hearing Required. The Planning Commission, prior to acting on a Zoning Change application, shall hold a public hearing as described in Section 202.

304.3.3 Review by Planning Commission. The Planning Commission shall review the Zoning Change application and render a decision to table to application, or recommend to the Board of Aldermen to either approve, or deny the Zoning Change.

304.3.3.1 Standards of Review. The recommendation of the Planning Commission to the Board of Aldermen shall be based on the following criteria:

1. That either there was a mistake in the original zoning, or the character of the neighborhood has changed to such an extent to justify rezoning;
2. That the Zoning Change conforms to the Comprehensive Plan;
3. That City utilities, sewer and other infrastructure can accommodate the uses allowable in the requested zoning district;
4. That allowable uses in the requested zone will not adversely affect the character of the area and will not result in a decrease of property values;
5. That the request does not constitute “spot zoning,” as described herein.

The burden of the proof shall be on the applicant to prove that these criteria are satisfied.

304.3.4 Action by Board of Aldermen. The Board of Aldermen shall review the Zoning Change application and render a decision to approve, or deny the request.

304.3.4.1 Standards of Review. In considering to approve or deny a Zoning Change request, the Board of Aldermen shall base such decisions on the Standards of Review described in Section 304.3.3.1.

304.3.5 Protest. If, at least one (1) business day prior to the decision of the Board of Aldermen on a Zoning Change application, the City Clerk receives a written petition protesting the Zoning Change application, and such petition is verified by the Planning Director as having been signed by the owners of twenty percent (20%) or more, either of the area of the lots included in such proposed change, or of those immediately adjacent to, or of those within two hundred (200) feet of the property boundary, such Zoning Change shall not become effective except by a favorable decision of eighty percent (80%) of all voting members of the Board of Aldermen.

304.3.6 Effect of Approval or Denial.

1. **Subsequent permits and approvals.** Approval of the application for a Zoning Change authorizes the applicant to apply for Site Plan Approval from the Planning Director and such other permits or approvals which the Planning Commission and/or Board of Aldermen may require for the proposed development. The Planning Director shall review applications for these permits for compliance with the new zoning of the subject parcel(s). A permit, certificate, or other approval shall be issued and valid only for work which complies with the new zoning category of the subject parcel(s).

2. Transferability of approval. A Zoning Change approval is not transferrable from one property to another.

3. Re-submission of denied applications. No application for a Zoning Change shall be filed with or accepted by the Planning Director for the same property for one (1) year following the date of denial or withdrawal of the application. The inclusion of an additional lot or lots in the new application shall not be permitted when it is evident that the inclusion of the new lot or lots is for the express purpose of avoiding this required waiting period. The one (1) year waiting period requirement may be waived in an individual case, for good cause shown, by majority vote of the Board of Aldermen.

304.4 Rezoning by Court Order. In the event rezoning is required pursuant to a court order specifically establishing the zoning classification to be applicable to the property which is the subject matter of the suit, the procedural requirements of the zoning ordinance for rezoning property shall not apply. A certified copy of the final court order shall be filed with the Planning Director after all available time for appeal has expired. The Planning Director shall enter the zoning change on the official zoning map and place the certified copy of the court order in the immediate area of the official zoning map and cause the zoning change to be entered in the minutes of the Board of Aldermen.

**SECTION
305**

SITE PLAN REVIEW

Site Plan Review shall be required, as stated by the provisions of these regulations to ensure compliance with zoning and other ordinances on large scale and other projects, to expedite procedures necessary for the obtaining of building permits, to provide the developer with one (1) central review of their development proposal, to conserve the time and efforts of Municipal staff in the various departments, and to provide for a speedy processing of applications for building permits on large scale and other projects. A Site Plan Review fee shall be charged in accordance with the adopted fee schedule.

305.1 Outline of Conditions for Site Plan Review. A proposal involving any of the following shall be subject to site plan review prior to issuance of a building permit:

1. Any new commercial or industrial development, including additions.
2. Any new residential development consisting of two or more duplexes
3. Any new residential development consisting of multi-family housing.
4. Planned Unit Developments.
5. Any new development located within a designated flood plain.
6. Preliminary Plats of Major Subdivision Developments.
7. Any project requiring a Special Exception or Variance.

8. Medical Cannabis facilities.

9. Additional projects as specifically defined by these regulations.

305.2 Site Plan Requirements. Two (2) copies of the Site Plan shall be provided to the Planning Director, with one (1) copy being returned to the developer upon approval of the Site Plan by the Site Plan Committee. The Site Plan shall include the following elements:

1. **Site Survey**, based on an exact survey of the property drawn to scale of sufficient size to show (a) exact location of all buildings and structures, (b) all means of ingress and egress, (c) all screens and buffers, (d) off-street parking and loading areas, (e) refuse collection areas, (f) access to utilities, proposed easements, and points of utility hook-ups, (g) natural features such as streams, lakes or other topographic features, and (h) any designated flood hazard areas.
2. **Storm drainage and grading plans**, including a stormwater runoff analysis, erosion control methods, and any proposed stormwater controls and structures.
3. **Building Plans** for all buildings in the development; including location, purpose, sizes, and appearances. For any structures 5,000 sq.ft. or larger in area, such drawings and plans shall be prepared by a state licensed engineer, architect, or similar design professional.
4. **Landscape Plan** indicating the location of all proposed greenspace, the location, type, size, quantities, and planting details for all proposed plant materials.
5. **Special Requirements for Designated Flood Hazard Areas**, Developments located within flood plains shall also provide documentation indicating base flood elevations, and proposed finished floor elevations for all structures.
6. **Plans for recreation facilities, if any**, including buildings for such use.
7. Such additional data, maps, plans, or statements as may be required for the particular use or activity involved.
8. Such additional data as the applicant may believe is pertinent to the site development plan.

In the review of Site Plans related solely to Special Exception or Variance requests, the Planning Director may waive any of the above Site Plan Requirements that are not specifically required by these regulations for the proposed development.

305.3 Site Plan Review. A Site Plan shall be filed with the City Clerk and forwarded to the Planning Director. Upon receipt of all required documentation, the Planning Director shall call a meeting of the Site Plan Review Committee for the purpose of study and verification of compliance with all relevant regulations. If the Site Plan is being reviewed in conjunction with an application for a Special Exception, Variance, Preliminary Plat, or Planned Unit Development, the Site Plan Review Committee shall review the Site Plan prior to further processing of the application. Applicants shall have the right to appear before the Site Plan

Review Committee, upon request. After receipt of reports from the Site Plan Review Committee, the developer shall be given opportunity to prepare amendments to the filed Site Plan.

305.3.1 Conditions and General Considerations of Site Plan Approval. The site plan submitted for such development as defined in this section shall provide that the proposed lot sizes, lot coverage, density, setback provisions and other factors are in conformity with the requirements of these regulations and other applicable ordinances and laws. In addition to such general considerations, said plan shall be approved only after a consideration of the following factors:

1. Ingress and egress to the property and proposed structure thereon, with particular reference to automotive and pedestrian safety, traffic flow and control, provision of services and servicing for utilities, and access in case of fire or catastrophe.
2. Manner of drainage on the property, with particular reference to the effect of provisions for drainage on adjacent properties and the consequence of such drainage on overall city capacities.
3. Conditions on ownership, control and use generally, and conditions on ownership, control, use and maintenance of open space or common lands to insure preservation of such lands for their intended purposes.
4. All utility connections shall be indicated and shall be in conformity with the standards and requirements for connection to utility companies proposed to serve the property whether said utility companies are public or private.
5. Off-street parking and loading areas, with attention to automotive and pedestrian safety, traffic flow and control, access in case of fire and catastrophe, and screening and landscaping.
6. Recreation and open spaces, with attention to the location, size, and development of the areas as to adequacy, effect on privacy of adjacent and nearby properties, and relationship to community-wide open spaces and recreation facilities.
7. Density and/or purpose of the development, with attention to its relationship to adjacent and nearby properties.
8. General site arrangement, amenities, and convenience, with particular reference to insuring that appearance and general layout of the proposed development will be compatible and harmonious with properties in the general area and will not be so at variance with other development in the area as to cause a substantial depreciation of such property values.

9. All setbacks, parking areas and accessory structures shall be so landscaped, located and constructed so as not to interfere with the use of the surrounding property.

305.3.2 Action by Site Plan Review Committee. The Site Plan Review Committee shall review the Site Plan and either approve or disapprove the site plan.

305.3.2.1 Effect of Approval or Denial.

- 1. Subsequent permits and approvals.** If the Site Plan is approved and there are no further reviews or approvals required by these Regulations, the project shall be approved for Building Permit issuance, and the Planning Director shall so notify the applicant. If a Special Exception, Variance, Preliminary Plant Approval, or other action is pending, the Planning Director shall forward the approved Site Plan to the Planning Commission, Board of Aldermen, or other decision making body, as appropriate, and notify the applicant of this action.
- 2. Disapproval of Site Plan.** If a Site Plan is not approved by the Site Plan Review Committee, the Planning Director shall specify in what respect it does not comply in writing to the applicant, who shall then amend the Site Plan for such corrections as necessary before further processing.

305.3.3 Time Period for Review. In all cases, the Site Plan Review Committee shall have up to or a maximum of thirty (30) days from the date of filing to review and either approve or disapprove of any site plan.

305.3.4 Action of the Committee Binding. Actions of the Site Plan Review Committee shall be binding upon the City of Fulton, Mississippi as far as the obtaining of building permits is concerned. Upon expiration of the thirty (30) day maximum review period and failure of the Committee to act, the Planning Director shall immediately forward the application to the Planning Commission for resolution within a maximum of thirty-five (35) days after the date of submission by the Site Plan Review Committee.

305.3.5 Expiration of Site Plan Approval. An approved Site Plan shall be valid for three (3) years from the time of approval.

SECTION 306 **MINOR SUBDIVISION REVIEW AND APPROVAL**

306.1 Outline of Conditions for Minor Subdivision. Approval without a plat of a minor subdivision may be granted by the Planning Director or their designee if the proposed subdivision of the parcel of land meets all of the following conditions:

1. The proposed division of a parcel of land involves no more than four (4) lots, being situated on and is along an existing public street, and shall not require the installation of public or private infrastructure regulated by these regulations.
2. The proposed division is not contrary to applicable subdivision, zoning or other regulations or has received any necessary zoning approvals, exceptions, and/or variances.
3. The proposed subdivision is approved by the Mississippi Department of Environmental Quality, local health department, Fulton Zoning Planning Director, and others as may be applicable.

306.2 Administrative Procedure and Approval.

1. **Application Requirements.** A minor subdivision or lot split application available at City Hall shall be filed by the landowner or designated representative. A complete application shall contain the following:
 - A. **Property Deed** verifying ownership of the property listed in the application. If applicant is an authorized agent, a notarized statement or other suitable documentation verifying the applicant is applying with the property owner's permission is required. Such other suitable documentation shall be at the discretion of the Planning Director.
 - B. **Survey:** Boundaries and lot lines drawn on an 11"X 17" sheet and at a scale between 1"=10, and 1"=100. All dimensions shall be shown in feet and tenth of feet. The survey shall also include the location and description of any monuments, and the location and size of all existing buildings. The survey shall conform to the minimum standards for boundary surveys in State of Mississippi.
 - C. **Legal description** for each lot being created.
 - D. **Flood map:** Areas within the 100 year floodplain and within floodways, as determined from flood studies or by scaling from mapping provided by FEMA, shall be delineated. Such boundaries may be included on the Survey described above.
 - E. **Other items**, or provisions deemed necessary by the Planning Director.
2. **Administrative Review.** The Planning Director shall approve the Minor Subdivision upon review of the required documentation and verification that such documents comply with the requirements of these regulations. Such approvals shall be reported to and ratified by the Board of Aldermen at its next regularly scheduled board meeting.

Incomplete or deficient proposals shall be disapproved and the developer notified of issues and reasons for the disapproval.

- 3. Recording.** The Minor Subdivision survey and legal descriptions shall then be recorded with Itawamba County. Minor Subdivision approvals expire if not recorded within one (1) year of approval.



ILLUSTRATION 306.2 – MINOR SUBDIVISION APPROVAL PROCESS

**SECTION
307**

MAJOR SUBDIVISION REVIEW AND APPROVAL

307.1 Outline of Conditions for Major Subdivision. A proposal involving any of the following shall be subject to major subdivision procedures:

1. Five (5) or more lots, including the original tract.
2. Creation, widening or extension of a street, court or public access easement.
3. Dedication of public infrastructure, or connection of private infrastructure to public infrastructure.
4. Subdividing platted land to create additional building lots in a recorded subdivision.

307.2 Pre-application Conference and Sketch Plat. Prior to preparing a preliminary plat, the developer may request an informal discussion with the Planning Director to discuss the procedures for approval of the subdivision plat and to familiarize the developer with the comprehensive plan, zoning requirements, infrastructure requirements, and the availability of existing utility services.

The developer is encouraged to prepare a sketch plat and submit the drawing for review prior to scheduling the pre-application conference.

307.2.1 Sketch Plat Requirements. Sketch plats submitted to the Planning Director, prepared in pen or pencil, shall be drawn to a convenient scale of not more than one hundred (100) feet to an inch and shall show the following information:

1. Location or vicinity map.
2. Ownership of property and adjacent properties.
3. Existing and proposed roads and easements.
4. Existing public and private sewer, water, natural gas, and other such infrastructure.

5. Approximate location and size of proposed water, sewer, storm sewer, natural gas, and other improvements.
6. Existing structures.
7. North arrow.
8. Outline of areas to be subdivided.
9. Location and use of proposed lots.
10. Important natural features and drainage ways.

307.3 PRELIMINARY PLAT.

Eight (8) copies of the preliminary plat shall be provided to the Planning Director, with one (1) copy being returned to the developer upon approval of the Preliminary Plat by the Planning Commission. The Preliminary Plat shall be at a scale of not less than one (1) inch equals one hundred (100) feet and shall show on the plat or on additional documents the following proposed improvements and conditions:

1. Completed Application Form available from the City Clerk's Office.
2. Subdivision name (if any) as it would be recorded, with names and addresses of owners, with notation stating acreage, graphic scale, a north arrow, datum, benchmarks, and date of survey;
3. Names of adjacent subdivisions, owners of adjoining parcels, and location of common boundary lines, extended to 200 feet beyond the boundary of the subdivision;
4. Vicinity map showing location of the site for the proposed subdivision with relation to other developed areas;
5. Bearings and distances along boundaries and mathematical closure of perimeter survey;
6. Location, width, and purpose of easements;
7. Location, width, and names of existing streets and railroad rights-of-way, parks, buildings, municipal limits, wooded areas, watercourses, marsh areas, drainage patterns, and water bodies;
8. Topographic features within and adjacent to the plat for a minimum distance of 200 feet unless access to adjacent property has been denied the professional surveyor. (5-foot contour intervals or less);
9. Location of floodways, floodplains, and a good faith effort to identify other potentially hazardous areas;

- 10.** A good faith effort to identify the location of environmentally sensitive areas;
- 11.** Proposed layout of the development indicating location, use, and number of lots, dimensions of each lot, and setback lines;
- 12.** Copy of Traffic Impact Study, if proposed development will consist of 50 or more lots.
- 13.** Parcels of land reserved for public use or reserved by covenant for residents of the subdivision;
- 14.** Point of ingress/egress of driveway locations and the distance to any existing driveways;
- 15.** Conceptual grading plan including the proposed location, size, and general grading for any storm drainage facilities, culverts, and stormwater detention/retention areas;
- 16.** Proposed general location and size of any proposed water, sanitary sewer, natural gas lines, easements, and other underground utilities within the tract or adjacent thereto;
- 17.** Proposed general location of any proposed electric lines and facilities;
- 18.** Proposed location of any other infrastructure improvements, such as sidewalks along public streets;
- 19.** Known cemeteries, historical or archaeological sites;
- 20.** A description and/or plan of erosion and sediment control measures, which will be employed to prevent damaging increases in erosion or in flood height velocities;
 - A.** For developments 1 to 5 acres in area, a *Small Construction Permit* (as submitted to the Mississippi Department of Environmental Quality) must be attached.
 - B.** For developments greater than 5 acres in area, a *Large Construction Permit* (as issued by the Mississippi Department of Environmental Quality) must be attached.
- 21.** Copy of proposed covenants and restrictions;
- 22.** Copy of agreed “will-serve” correspondence from the City, or as otherwise approved. The extension of public utilities to serve the development may require Board of Aldermen approval to secure the “will-serve” letter;
- 23.** A letter issued by the Mississippi Department of Transportation authorizing connection of proposed streets to existing streets under their jurisdiction, if any.

24. Any screening, buffering and/or noise abatement measures;

25. Other plans or general information as is deemed necessary by the Planning Director, or as required by other local ordinances, to verify compliance with the regulations of the City.

26. Phasing plan; provide an estimated time table for construction of the entire subdivision including:

A. Estimated date of submission of final construction drawings for each phase,

B. Estimated date of submission of Final Plat, (as built) for each phase,

C. Estimated number of Lots to be included in each phase.

307.3.1 Staff Review. Upon receipt of all required documentation, the Planning Director shall forward copies of the Preliminary Plat to the Site Plan Review Committee for the purpose of study and verification of compliance with all relevant regulations. After receipt of reports from the Site Plan Review Committee, the developer shall be given opportunity to prepare amendments to the filed Preliminary Plat.

Upon completion of any amendments and submission of a revised Preliminary Plat, if necessary, the Planning Director shall forward the Preliminary Plat to the Planning Commission for review and approval.

307.3.2 Public Hearing Required. The Planning Commission, prior to acting on a Preliminary Plat, shall hold a public hearing as described in section 202 of these regulations.

307.3.3 Action by Planning Commission. The Planning Commission shall review the preliminary plat and render a decision to table, approve, deny, or approve with changes or conditions. Approval of the preliminary plat shall not constitute approval of the final plat, nor shall the preliminary plat be recorded in the Chancery Clerk's office.

307.3.3.1 Standards of Review. If the Planning Commission finds that the Preliminary Plat has elements in the design which are in violation of these Regulations, the Fulton Zoning Ordinance, or other applicable regulations, and the developer has not secured remedies of these violations, such as variances, exceptions, etc., or that the land proposed to be subdivided is unsuitable for subdivision development due to poor drainage, flood hazard, topography, or other reasons and other such conditions which may endanger health, life, safety, or property; and, if by any public agencies concerned it is determined that in the best interest of the public the land should not be developed for the purpose proposed, the Planning Commission shall not approve the subdivision unless adequate methods for solving the problems are advanced by the developer. A written statement may be required by the Planning Commission describing characteristics of

the development site, such as soils, topography, flood prone areas, existing vegetation, structures and road networks, visual features, and past and present use of the site. No environmentally sensitive area such as a stream or wetland shall be developed or approved for development without providing all applicable permits from the appropriate state and/or federal agencies.

307.3.4 Action by Board of Aldermen on certain Preliminary Plats. If it is necessary for the City to extend existing infrastructure, such as water, sewer or natural gas, or perform other off-site improvements necessary to provide services to the proposed subdivision, or if the development is to be located in whole or in part within a FEMA designated Special Flood Hazard Area, the Preliminary Plat shall be forwarded to the Board of Aldermen for review and approval following Planning Commission approval.

In such consideration, the approval of the Preliminary Plat by the Board of Aldermen shall obligate the City to extend any such utility services as may be necessary to serve the proposed subdivision prior to approval of the Final Plat. The cost and timing of such improvements shall be as agreed to between the developer and Board of Aldermen, subject to any limitations by State Statute.

In such cases, the Preliminary Plat shall be approved by both the Planning Commission and Board of Aldermen.

307.3.5 Preliminary Plat Expiration. The approval of the Preliminary Plat shall be effective for a maximum period of three (3) years from the date of its final approval unless an extension of the approval has been granted in writing by the Board of Aldermen. If the final plat application is not accepted within three (3) years, the preliminary plat approval shall expire and become void.

307.3.6 Preliminary Plat Recall. The Planning Director may recall unplatted portions of the preliminary plat for consideration, and re-approval, modification, or disapproval by the Planning Commission. A recall may occur if:

1. Incomplete, inaccurate or fraudulent information influenced approval.
2. The developer has failed to satisfactorily pursue platting or conditions of approval.
3. Previously unknown or new health, safety or environmental concerns arise.

The developer shall be notified by letter at least thirty (30) days before the recall is scheduled for consideration.

307.3.7 Model Homes. For the purpose of allowing the early construction of model homes in a subdivision, the Planning Director, in their sole discretion, may permit a portion of a major subdivision involving no more than (2) lots to be created in accordance with the procedures for minor subdivision, provided the portion has access from an existing public street, and to existing water, and sewer,

and provided no future road or other improvements are anticipated where the lots are proposed.

An application for minor subdivision or lot split shall be submitted to the Planning Director simultaneously with the Preliminary Plat for the entire major subdivision. Subsequent to preliminary approval, the model homes may be constructed, subject to such additional requirements as the Planning Director may require.

307.4 CONSTRUCTION PLANS

Upon approval of the Preliminary Plat, the developer is authorized to prepare Construction Plans for all necessary improvements. Construction plans specified herein shall be prepared under the supervision of a registered Professional Engineer. Four (4) sets of construction plans shall be provided to the Planning Director, with one (1) set being returned to the developer upon completion of review. The construction plans shall be drawn to a scale acceptable to the Planning Director and shall be prepared on sheets twenty-four (24) inches by thirty-six (36) inches in size and shall consist of the following information:

1. The approved Preliminary Plat and related information for the entire development;
2. A base survey showing all pertinent boundary and owner information for the subject property and adjoining properties;
3. An existing topographic map (2-foot contour intervals or less) of the entire site with detailed topographic information for on site and off site contributing drainage areas, including property boundaries, and delineation of all identified floodplain, floodway, wetlands, streams, bodies of water, and/or other protected areas;
4. Proposed site layout plan including all existing and proposed property boundaries, lot arrangements, lot numbers, rights of way, streets, utilities, easements, site vegetation, and development phasing.
5. A detailed proposed grading plan, including building pad elevations for all prepared sites (2-foot contour intervals or less);
6. Detailed plans on water, wastewater, and natural gas systems;
7. A detailed Stormwater Report including:
 - A. a site stormwater summary;
 - B. detailed plans on culverts, drainage structures, stormwater detention/retention facilities, bridges, and other such structures;
 - C. the basis for determining runoff coefficients and time of concentration;
 - D. inflow hydrographs with peak flows for the 2, 10, 25, and 100 year storm frequencies;

E. a stage/storage/discharge table for all proposed detention;

F. details and calculation for all proposed control structures;

G. hydrological routing of 2, 10, 25, and 100 year storm events through the proposed facilities, including an analysis of the off-site properties that may require consideration anticipating future development in addition to addressing existing conditions;

8. A Storm Water Pollution and Prevention Plan, as approved by the Mississippi Department of Environmental Quality;

9. Construction plans and specifications for all proposed water and wastewater systems shall be accompanied by a written letter of approval from the Mississippi State Health Department and the Mississippi Department of Environmental Quality;

10. Construction plans and specifications for all proposed natural gas systems shall be accompanied by a written letter of approval from the Fulton Gas Department Director;

11. A combination street plan and profile for a typical cross-section of the proposed grading, drainage, base course, and pavement;

307.4.1 Construction Plan Review and Approval. The Planning Director shall forward the Construction Plans to the City Engineer or Engineering Consultant. The engineer shall review the construction plans for compliance with this chapter, and the referenced standards, and render an approval or disapproval.

Construction plan reviews may take up to thirty (30) days to complete. This time may be extended or reduced by the Planning Director, depending on the completeness of the application.

Any fees incurred by the City for the review of Construction Plans shall be reimbursed to the City, by the applicant, within thirty (30) days of Construction Plan approval.

Approval of the construction plans shall not constitute approval of the final plat, nor shall the plat be recorded in the Chancery Clerk's office. Approval of the construction plans by the Planning Director shall authorize the developer to proceed with the construction of infrastructure and other site improvements.

307.4.2 Improvement Schedule Required. Prior to beginning construction, the developer shall furnish to the Planning Director an approximate schedule for installation of required improvements.

307.4.2.1 Development Agreement. Any improvements the developer intends to install after Final Plat approval shall be brought before the Board of Aldermen for approval. The Board of Aldermen, at their sole discretion, may require that all infrastructure be installed and dedicated at the time of

Final Plat approval, or may enter into a Development Agreement with the developer, allowing improvements to be installed following Final Plat approval. Such Development Agreement shall be as described in Section 307.6.3

307.4.3 Inspections Required. The developer's engineer or engineer's representative shall make periodic inspections of all improvements required by these regulations including water, wastewater, stormwater, natural gas and road infrastructure during construction and shall maintain a record of written inspection reports detailing the results of such inspections.

307.4.4 Engineer Certification Required. An Engineer's Inspection Summary Report shall be prepared by the developer's engineer. The Engineer's Inspection Summary Report shall contain records of inspections, tests reports, etc. and other documents required herein. This report shall be submitted along with a letter of certification from the developer's engineer that construction has been completed in substantial conformance with the approved construction documents. The Engineer's Inspection Summary Report shall be submitted with the Final Plat when submitted for approval. The Final Plat will not be reviewed for approval until the Engineer's Inspection Summary Report is accepted by the Planning Director as complete and the engineer's letter of certification is provided.

307.4.5 As-Built Drawings Required. Upon completion of all improvements intended to be dedicated as public infrastructure, the developer's engineer shall provide drawings of the infrastructure as-built to the Planning Director. These drawings shall be prepared on sheets twenty-four (24) inches by thirty-six (36) inches in size. The Final Plat will not be reviewed for approval until the As-Built Drawings are accepted by the Planning Director and verified as complete.

307.5 FINAL PLAT

Upon completion of all required improvements for the subdivision or phase of subdivision, and engineer certification of the same, as described in Section 307.4.4, the developer is authorized to submit a Final Plat to the Planning Director. The Final Plat shall be prepared by a licensed surveyor.

The Final Plat shall conform substantially to the approved Preliminary Plat and, if desired by the developer, it may constitute only that phase of the approved preliminary plat that is proposed to be recorded, provided that such portion conforms to all requirements of these regulations.

Eight (8) copies of the Final Plat shall be submitted to the Planning Director, with one (1) copy being returned to the developer upon approval of the Final Plat. The scale of the Final Plat shall conform to the requirements of the Itawamba County Chancery Clerk and shall contain the following information:

1. Primary control points, approved by the Planning Director, or descriptions and "ties" to such control points to which all dimensions, angles, bearings, and similar data on the plat are referred;

2. Tract boundary lines, right-of-way lines of streets and easements, and property lines of lots and other sites. Sufficient data shall be shown, including accurate dimensions, bearings, deflection angles and radii, arcs, and central angles of all curves to determine readily and reproduce on the ground any line on the map;
3. Name and width of each street or other right-of-way;
4. Location, dimensions, and purpose of any easements;
5. Lot lines together with identification of all lots which shall be numbered consecutively;
6. Purpose of which sites, other than single-family residential lots, are dedicated or reserved, and any areas subject to flooding by a flood with an expected frequency of one hundred (100) year shall be clearly identified and delineated;
7. Minimum building setback lines on all lots and other sites;
8. Location and information for all areas reserved for stormwater detention/retention use;
9. Location and description of boundary monuments;
10. Title, graphic scale, north arrow, and date;
11. Any proposed restrictive covenants in form for recording;
12. Engineer Certification of completed construction improvements and prepared Improvement Warranty, or copy of Development Agreement and performance guarantee;
13. A metes and bounds description of the subdivision boundary;

307.5.1 Final Plat Approval. The Planning Director shall review the Final Plat for compliance with the requirements of these regulations, and upon verification, shall forward the Final Plat to the Board of Aldermen for consideration at their next regularly scheduled board meeting.

307.5.1.1 Action by Board of Aldermen. The Board of Aldermen shall act on the Final Plat within forty-five (45) days of receipt, unless such time is extended by agreement with the developer, the final plat is withdrawn or a delay-of-action is requested and granted. Failure of the Board of Aldermen to act upon the final plat within such time shall be deemed an approval of the plat.

Conditional approval of a final plat shall be limited to minor clerical and other non-substantive errors as determined by the Board of Aldermen.

307.5.1.2 Denial of Final Plat. If disapproved, the reason shall be stated in the record of the Board of Aldermen. If disapproved, the developer shall

make the necessary corrections and resubmit the final plat, within thirty (30) days, to the Board of Aldermen for its final approval.

The Final Plat shall not be approved by the Board of Aldermen until full payment of any unpaid fees owed the City by the developer are received by the office of the City Clerk.

If a Final Plat is refused by the Board of Aldermen, the developer may file a petition within sixty (60) days after such refusal in the Circuit Court of Itawamba County, Mississippi.

307.5.1.3 Effect of Final Plat Approval. Upon approval of the Final Plat by the Board of Aldermen, the City Clerk is authorized to sign the *Certificate of Board of Aldermen Approval* (see Section 1501, item E) indicating approval together with the date of the approval of the Board.

Approval of the Final Plat by the Board of Aldermen shall constitute authorization for the developer to proceed with recording the subdivision of the approved parcels and development of said lots.

A filed copy of the Final Plat shall be presented to the Planning Director prior to the issuance of any building permits.

307.5.1.4 Final Plat Expiration. The developer shall record the final plat with the Chancery Clerk of Itawamba County, and to the Itawamba County Tax Assessors office for processing. within sixty (60) days of final approval, otherwise the final plat approval shall expire and become void.

307.6 ACCEPTANCE OF PUBLIC INFRASTRUCTURE

307.6.1 Procedure. During or after Final Plat approval, when the developer has completed installation of infrastructure to be dedicated to the City, the Planning Director shall provide the Board of Aldermen with the Engineer's Inspection Summary and Certification, as described in Section 307.4.4, and any Development Agreement, as described in 307.6.3 as previously authorized by the Board of Aldermen. The developer shall also provide the following:

- 1.** Title Certificate and Legal Description of all dedicated public right-of-ways.

- 2. Improvement Warranty.** The developer shall guarantee that all improvements provided, installed and as stipulated in the development agreement, shall remain free of defects for a period of one year from date of acceptance by the City. This guarantee shall be in the form of an improvement warranty in the amount of ten percent (10%) of the engineer's estimated cost of improvements as approved by the City Engineer. Such warranty shall be provided in a financial instrument as described for Development Agreements in Section 307.6.3 A, B, or C.

307.6.1.1 Action by Board of Aldermen. Upon receipt of the documentation, certifications and warranty as described in Section 203.6.1, the Board of Aldermen shall accept the dedicated infrastructure. Acceptance by the Board of Aldermen shall authorize the Mayor and City Clerk to sign the *Certificate of Acceptance of Dedications* (see Section 1501, item H) indicating approval together with the date of the approval of the Board.

307.6.2 Final Inspection and Warranty Release. One (1) year after acceptance of Public Infrastructure, a final inspection by the City Engineer, or designee, shall be made. Should the City Engineer find that repairs or maintenance is necessary, and upon written notice, the developer shall have a maximum of thirty (30) days to affect the required repairs or maintenance work. Approval of inspection of the Public Infrastructure shall be in writing and shall be forwarded to the Planning Director. The decision of the City Engineer upon the matter shall be final and binding upon the developer.

In the event the developer fails to conduct such repairs or maintenance, the City shall pursue action against whichever method of warranty was provided as well as any other rights available under the law.

Upon receipt of the City Engineer's approval of the Public Infrastructure, the Planning Director shall report the final acceptance of the improvements to the Board of Aldermen and direct the City Clerk to release the remaining improvement warranty to the developer.

307.6.3 Development Agreement. If the Board of Aldermen does not require that all public improvements be installed and dedicated prior to signing of the Final Plat, the Board of Aldermen shall require that the applicant provide a Development Agreement specifying the improvements not yet completed and furnish a performance guarantee for the ultimate installation of said improvements. The developer shall provide a cost estimate for the completion of required construction items prepared by the developer's engineer for the proposed subdivision. Such performance guarantee shall be in one of the following methods:

A. Payment and Performance Bonds. The developer shall furnish payment and performance bonds in an amount equal to one hundred ten percent (110%) of the estimated cost of improvements as approved by the City Engineer.

B. Escrow Deposit. The developer shall deposit in an interest bearing escrow account an amount equal to one hundred ten percent (110%) of the engineer's estimated cost of improvements as approved by the City engineer. The escrow account shall be used solely for securing the subdivision's improvements. The escrow account holder shall be first approved by the Board of Aldermen prior to the deposit being made. The terms of the escrow account shall only require that the City present the issuer with a signed draft and a certificate signed by the Mayor and City Clerk certifying the City's right to draw funds on the account to complete the required improvements.

C. Irrevocable Letter of Credit. The developer shall file with the City Clerk an irrevocable letter of credit from a duly chartered state or national bank or savings and loan institution in an amount equal to one hundred ten percent (110%) of the engineer's estimated cost of improvements as approved by the City Engineer. Said letter of credit shall:

1. Be irrevocable,
2. Be of a term sufficient to cover the completion, plus sixty (60) days, and the improvement warranty period (1 year); and
3. Require only that the City present the issuer with a signed draft and a certificate signed by the Mayor and City Clerk certifying to the City's right to draw funds under the letter of credit.

307.6.3.1 Default. In the event the developer fails to complete the required improvements as stipulated in the development agreement, within two (2) years after final plat acceptance, the City shall pursue action against whichever method of guarantee was provided to complete the improvements as described.

The Board of Aldermen may assign its right to receive funds under the security to any third party, including a subsequent owner of the subdivision for which required development improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete the public improvements on the tract.

The City may exercise any other rights available under the law, upon default.

307.6.3.2 Covenant. The developer shall, as part of the executed development agreement, not sell, lease or convey any of the subdivided property to anyone unless they, as a condition thereto, satisfy at least one of the performance guarantees specified in Section 307.6.3. The agreement shall specifically provide that it shall be deemed to be a covenant running with the land, binding all successors, heirs, and assigns of the property owner to secure the installation of the improvements required together with payment of all costs, including reasonable attorney fees which may be incurred by the City in the enforcement of any of the terms and provisions of the agreement. The development agreement shall be recorded in the Itawamba County recorder's office. All existing lienholders shall be required to subordinate their liens to the covenants contained in the development agreement.

307.6.3.3 Reduction and Release of Surety. Request for conditional acceptance of the subdivision improvements and reduction in surety must be in writing from the developer to the Planning Director. When installation of the subdivision improvements are seventy five percent (75%) complete, fifty percent (50%) of the estimated cost of the improvements will be released after inspection and written verification by the City Engineer. After final completion of all work, an additional fifty percent (50%) of the

estimated cost will be released after inspection and written verification by the City Engineer, and acceptance by the Board of Aldermen, as described in Section 307.6.1. This leaves ten percent (10%) of the estimated cost to be held as the improvement warranty for the improvement warranty period, as described in Section 307.6.1. The schedule for release of surety may be modified by the specific development agreement.

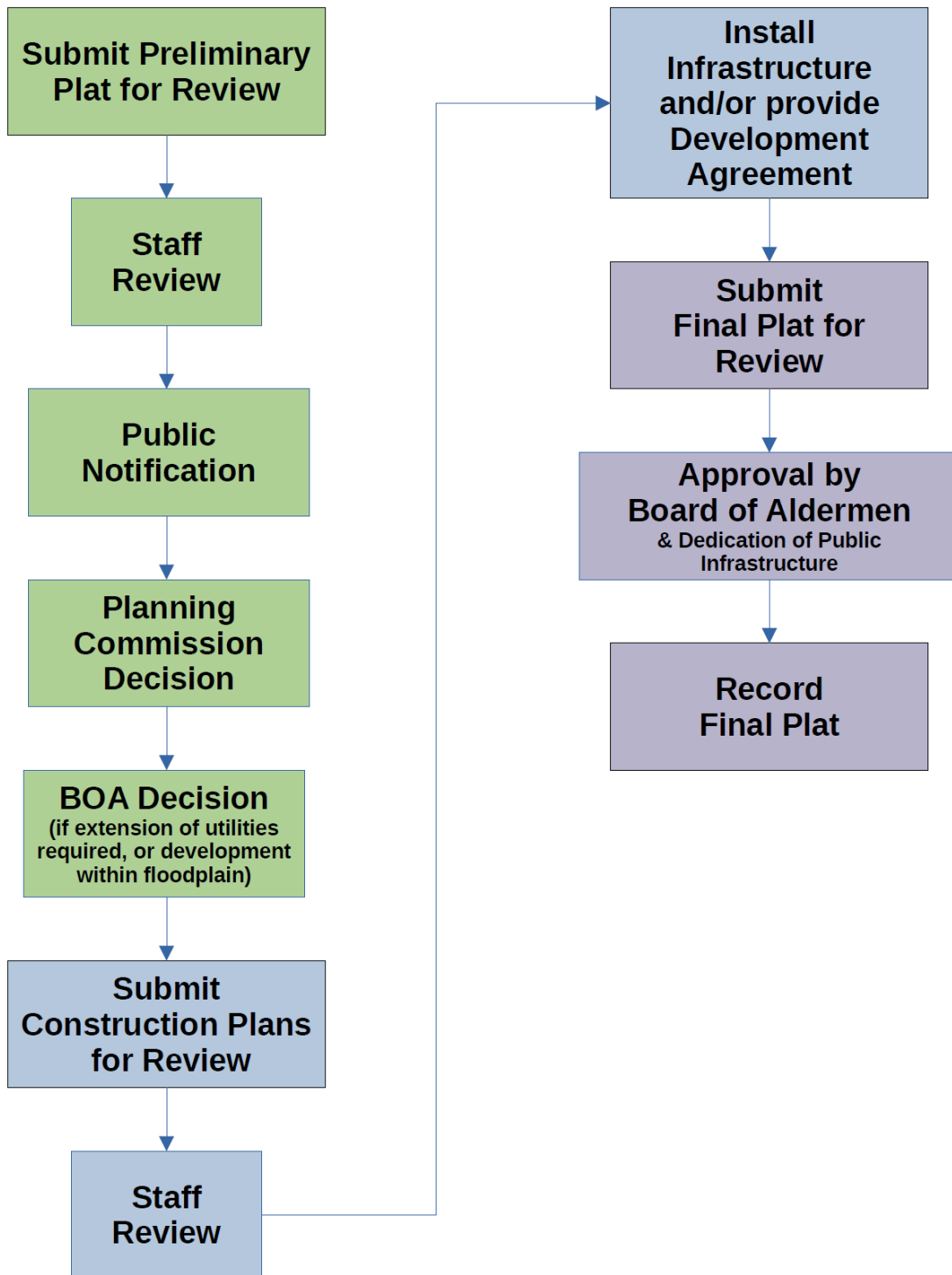


ILLUSTRATION 307 – MAJOR SUBDIVISION APPROVAL PROCESS