

Sterling

Kansas

Planning

Handbook

The Old West Partnership

PLANNING & COMMUNITY DEVELOPMENT CONSULTANTS

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THE PLAN

THE COMPREHENSIVE PLAN

The Comprehensive Plan is a document which explains how a community intends to improve the physical, social, and economic environment. The plan also provides the legal basis for a community's planning activities related to growth and new development. In the preparation of the plan, an extensive survey of past, present, and expected conditions should be completed. Based upon that information it is then possible to identify those actions required for orderly growth and improvement in the future. Comprehensive planning is a process which provides the opportunity to work in a logical manner for a better and of community resources.

THE PLANNING PROCESS

The planning process provides the mechanism by which a reasonable and logical plan can be developed. The planning process begins with the recognition of the need to act in ways in which to improve the quality of life. Once this need is recognized, the process of planning is undertaken as described below.

- STEP I. Recognize the need for planning
- STEP II. Inventory and analysis of existing conditions
- STEP III. Statement of goals and objectives
- STEP IV. Prepare plan to reach goals and objectives
- STEP V. Implement the plan
- STEP VI. Review and update the plan

The following discussion briefly describes each of the major steps related to the process described above.

Inventory and Analysis

As noted in the process outlined in a study of background information related to the study area. An understanding of past, present, and future conditions is necessary in order to develop a reasonable plan. The following are some important elements which should be studied.

- A. Population - Past population trends should be analyzed and future population estimates made. Population projections can be made using a variety of methods, including econometric analysis, linear regression, and arithmetic extrapolation. Information on the age - sex structure of the population should also be reviewed. The population information provided in the study of how large a population must be served in the future and what special needs must be met to serve the type of population.

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THE PLANNING PROCESS

The planning process provides the mechanism by which a reasonable and logical plan can be prepared. The planning process begins with the recognition of the need to set forth ways in which to improve the quality of life. Once this need is recognized, the process of planning is undertaken as described below.

- STEP I. Recognize need for planning
- STEP II. Inventory and Analysis of Existing Conditions
- STEP III. Statement of Goals and Objectives
- STEP IV. Prepare Plan to Reach Goals and Objectives
- STEP V. Implement the Plan
- STEP VI. Review and Update the Plan

The following discussion briefly describes some of the major activities related to the process described above.

Inventory and Analysis

This step in the process consists of a study of background information related to the study area. An understanding of past, present, and projected conditions is necessary in order to develop a workable plan. Listed below are some important elements which should be studied.

- A. Population - Past population trends should be analyzed and future population estimates made. Population projections can be made using a variety of methods, including cohort survival, linear regression, and arithmetic extrapolation. Information on the age - sex structure of the population should also be reviewed. The population information provides an indication of how large a population must be served in the future and what special needs must be met to serve the type of population.

B. Economic Base - An understanding of the types of industries and employment categories is needed to allow for a Plan which enhances the economic environment. An Economic Base Study can identify major employment categories and will identify which industries support the local economy. Study of sales tax revenues, retail and wholesale volumes, and the number of retail establishments provides an indication of the relative strength of the local economy. The Economic Base information will provide direction when determining steps needed to support and improve the local economic situation.

C. Housing Conditions - Information on the type and supply of available housing will assist in determining if local public housing is needed or if new subdivisions should address particular housing needs. Windshield surveys of housing conditions will identify areas which need special housing activities. Review of local housing conditions will assist in determining future steps required to insure that adequate housing is available for all citizens.

D. Community Facilities - An inventory of available facilities and the services they provide should be compiled. The capacity and condition of these facilities should be identified so that deficiencies or special needs can be determined. The inventory should include information on sewer and water treatment and distribution systems, public safety, recreation, and education.

E. Environmental Conditions - Soil types, topography, drainage problems, and groundwater resources should be identified to determine any natural limitations affecting future community change.

F. Existing Land Use - A survey of existing land uses by type and location should be completed to show present land use patterns and areas of existing or potential use conflicts. The land use survey will show areas which are in transition from one general use category to another and will identify areas which are dedicated solely to residential,

commercial, or industrial uses. This information will assist in promoting the preservation of an orderly growth pattern in the community. Land uses should be categorized by different intensities of residential, commercial, industrial, public, and open space.

With the collection of the above information completed a profile of present conditions and future needs is available to assist in outlining future activities required for an improved social, physical, and economic environment.

Goals and Objectives

With the future needs identified the Plan outline can be prepared in terms of planning Goals and Objectives. Goal statements identify the long range aims and are stated in general terms. Objectives identify the implementation activities which need to be undertaken and collectively will lead to accomplishment of the Goals. Goals should address major factors such as economic development, housing, land use, recreation, public facilities, etc.

Plan Preparation

The Goals and Objectives identify the steps needed to address problems and areas of concern identified in the inventory and analysis of background information. The Plan Preparation consists of identifying the specific steps which must be taken to realize each planning objective. Community resources, financial aid programs, and local organizational structure should be considered in the preparation of Plan recommendations. The Plan should set forth recommendations with the realization that a long range process is being utilized and that not all issues and problems can be solved immediately.

Plan Implementation

In order to properly implement the Comprehensive Plan, it must be officially adopted by the Planning Commission. The Planning Commission must hold a public hearing on the Plan, giving twenty days notice of the hearing as a legal publication in the official newspaper. After the public hearing, the Comprehensive Plan may be revised or left the same and it must then be forwarded to the Governing Body for their review. The Governing Body should respond with it's comments and recommendations within sixty days. After the public hearing and review by the Governing Body, the Planning Commission may then adopt the Comprehensive Plan. Thereafter the Plan is the official public policy for coordinated and orderly growth and development.

Once the Plan has been officially adopted, various implementation measures may be enacted. Zoning, subdivision regulation, and capital improvement programming are the basic implementation tools available. Use of these tools require an adopted Plan before they can legally or practiably be enacted. Implementation of these tools is discussed in the following section of this handbook.

Review and Updating of the Plan

As a practical matter it will be necessary from time to time to make changes to the adopted Plan. State law requires that the Plan be reviewed annually to determine if the Plan realistically addresses the changing conditions of the community. On the first day of June each year the Planning Commission should submit a written review of the Plan to the Governing Body.

In the course of reviewing the Plan it may be found that revisions are required. Normally, revisions will be required as a result of significant changes in the physical or social characteristics of the community. If this situation arises it will be necessary to re-study the facts and make adjustments in the timing or substance of Plan recommendations. The revision process can best be accomplished by establishing a monitoring system which identifies changes in physical and social conditions, such as population change, school enrollment, reports on the status of public facilities, employment changes, land use changes or development, etc. Review of this monitoring information will assist in determining the extent and scope of needed revisions. If revisions are needed they must be done in accordance with the public hearing process described for adoption of the Plan.

Amendment of the Plan

Specific changes in the Plan may be required as the result of development actions proposed by the private sector. These changes typically relate to the physical development patterns outlined by the Land Use Plan. Before recommending approval of development actions which are inconsistent with the adopted Plan, justification for such actions must show that there will be no adverse effects on the general welfare of the community. If a zoning change request conflicts with the Land Use Plan but will not seriously disrupt the general intent of the Plan, the Plan must be amended before a zoning change can be made. In order to amend the Plan, the public hearing process required for Plan adoption must be followed. This amendment procedure is very important to the legality of rezoning actions taken by the Planning Commission and should be followed prior to any rezoning which does not conform to the Land Use Plan. Reasonable justification for such amendments should be presented before any amendment is made.

SUMMARY

The Comprehensive Plan can outline ways in which future growth and development can meet the needs of a community. The Planning Process provides the means by which community needs can be identified and accomplished. Constant review and monitoring of the Plan will insure that a means for guiding future change realistically addresses the needs of a changing community. As the legal basis for most planning activity, the Comprehensive Plan makes it possible to promote growth consistent with local desires and needs. The following sections further explain the ways in which the Comprehensive Plan can become a reality.

Review and Revision of the Plan

As a practical matter it is necessary from time to time to make changes in the original plan. These changes may be made by the committee annually or biennially at the first meeting of the committee. The committee should also make a revision of the plan at the first meeting of the committee.

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PLANNING IMPLEMENTATION

The adopted Comprehensive Plan provides the legal basis for implementation of the planning program. Zoning and subdivision regulations, capital improvements programming, and financial grant/loan assistance programs provide the basic tools for implementation of the Comprehensive Plan. Discussed in this section are the procedures available for plan implementation.

ZONING

The Comprehensive Plan identifies the location, type, and intensity of land uses which will best serve the future growth needs of the community. Based upon that information and in accordance with State enabling legislation for land use regulation, a zoning ordinance may be adopted. In the implementation of zoning regulations the Planning Commission should have available copies of "Kansas Planning Laws and Procedural Guide Outline" prepared by the League of Kansas Municipalities. Free copies of this reference may be obtained by member units of Government by contacting the League offices in Topeka.

Adoption of a Zoning Ordinance

A draft zoning ordinance must first be reviewed by the Planning Commission to insure that the proposed zoning regulations will meet the needs of the community. The district regulations, which identify the types and intensities of land uses permitted in certain areas, should be related to existing development patterns, Comprehensive Plan Goals, and the Future Land Use Map. The district zoning regulations are intended to promote orderly land use and development consistent with the Comprehensive Plan. The regulations should be written to accomodate existing development patterns so that a large number of existing uses are not in conflict with the proposed zoning ordinance. Requirements for minimum lot size, building setbacks, and structure size should be reviewed in relationship to existing development as well as the Future Land Use Plan. The draft ordinance must include a zoning district map which is an integral part of the ordinance. Zoning districts should be related to existing development so that existing uses are not placed in conflict with the zoning ordinance. As development occurs the zoning map may be amended in accordance with the Future Land Use Map (See discussion on Amendments). The zoning district regulations and map should set forth use regulations for varying densities of residential, commercial, and industrial land uses.

Once a draft zoning ordinance has been reviewed and approved by the Planning Commission a public hearing on the proposed ordinance must be held. Public notice of the hearing should be published at least once twenty days before the hearing. The notice must be published in the official city newspaper. After the public hearing the Planning Commission may forward a recommendation for approval of the ordinance to the Governing Body. The Governing Body may adopt the ordinance as recommended or may return it to the Planning Commission for revisions.

If the Governing Body determines it appropriate to adopt the zoning regulations, adoption must be accomplished by ordinance duly published in the official newspaper. It should be noted that the Governing Body is the legislative body with the authority to enact local zoning regulations. The Planning Commission is an advisory body and may not legally enact zoning regulations.

Amendments to the Zoning Ordinance

Adoption of the zoning ordinance provides the tool by which the land use development patterns and Goals of the Comprehensive Plan may be accomplished. However, as conditions in the community change, it may be necessary from time to time to change the zoning district regulations on the zoning map. A change in the zoning ordinance may be initiated by the Governing Body, the Planning Commission, or a property owner. When a request for an amendment to the zoning ordinance is received, the following steps must be taken:

- A. Request for Amendment Filed with Planning Commission Secretary.
- B. Public Hearing Scheduled - Notice of Hearing published at least 20 days prior and adjacent property owners within 200 feet notified in writing at least 10 days prior.
- C. Public Hearing held and Planning Commission passes recommendation. If amendment involves a zone change which does not conform to the Future Land Use Map. The Map must be amended prior to the zoning changes.
- D. Recommendation forwarded to Governing Body.
- E. Governing Body may not act on recommendation until 14 days after public hearing. If owners of 20% or more of the property within 200 feet or if 20% or more of the property owners within 200 feet file a protest to the Planning Commission recommendation, a three-fourths vote in favor of the recommendation is required for approval of the amendment request. If no protest is filed a simple majority vote of the Governing Body is required to approve the amendment request.
- F. After an amendment is approved by the Governing Body appropriate changes should be made to the ordinance text and/or map and an amendment ordinance must be published in official newspaper.

The enclosed forms and checklists for zoning amendment requests further outline the procedures for amendments to the zoning ordinance.

Amendment Criteria

Most amendment requests relate to changes in the zoning district map as a result of changing development patterns. There are several issues which should be considered before the Planning Commission makes a recommendation on the request. The relationship of an amendment request to Comprehensive Plan Goals, the Future Land Use Map, and state zoning statutes should be reviewed before a recommendation is passed.

Relationship to Plan Goals: The Comprehensive Plan Goals often make statements concerning the types of development which can best serve the community. For example, a Goal may relate to the preservation of the downtown area as the major commercial center. Consequently, it may be found that a proposal for commercial zoning on the edge of town will detract from the attainment of that Goal. Proposals for zoning change should be compared to the planning Goals to insure that the proposal is not in conflict with the intent of the Comprehensive Plan.

Relationship to Future Land Use Map: The Future Land Use Map identifies the desired physical development patterns which will promote orderly growth and alleviate problems of conflict among various land uses. A zoning change request should be reviewed to determine if the allowed uses of the requested zoning district conform to the proposed future use on the Future Land Use Map. Reference to the Future Land Use Map in a zoning recommendation provides a sound legal basis for the decision. If the proposed use does not conform with the uses shown on the Future Land Use Map the request should be denied unless there is ample justification. In such a situation the Future Land Use Map must be amended prior to the zoning change.

Relationship to State Zoning Laws: Past legislative and judicial actions have specifically outlined the procedures for amendments of the zoning ordinance. The formal steps outlined above provide for the legal amendment of zoning ordinances. A recent State Supreme Court decision; *Golden vs. City of Overland Park*, has further delineated evaluation criteria which must be considered in any zoning decision. The Planning Commission should compare any zoning amendment request to the following criteria to insure that all legal aspects of zoning change have been addressed:

- 1) Review characteristics of neighborhood surrounding the property under consideration
- 2) Review existing zoning and land uses of properties in the area
- 3) Can the land be used as it is presently zoned?
- 4) Effect of zoning change on adjacent properties
- 5) Length of time property under consideration has remained vacant as presently zoned (if applicable)
- 6) Benefit to public health and safety by change of value from rezoning compared to any hardship to owner if property not rezoned
- 7) Recommendations of City Staff or Consultants
- 8) Conformance of proposed zoning change to the adopted Comprehensive Plan

Use of the suggested forms and checklists as well as the above amendment criteria will provide the Planning Commission with a zoning ordinance implementation procedure which effectively promotes development consistent with the Comprehensive Plan.

APPLICATION FOR AMENDMENT
TO ZONING ORDINANCE

APPLICATION NO. _____
DATE FILED _____
DATE FEE PAID _____
AMOUNT _____

NAME, ADDRESS OF APPLICANT(S): _____

LEGAL DESCRIPTION OF PROPERTY TO BE REZONED _____

PRESENT ZONING OF PROPERTY: _____

REQUESTED ZONING OF PROPERTY: _____

REASONS FOR REQUESTED CHANGE IN ZONING: _____

*Attach a List of all Owners of Property Residing Within 200 Feet of
the above Described Property.

The undersigned owner(s) of the above described property respectfully
request a change of zoning district classification as described above
for the stated reasons.

SIGNED _____
Property Owner(s)

ZONING AMENDMENT CHECKLIST

APPLICATION NO. _____
DATE FILED _____
DATE FEE PAID _____

A. DATE OF HEARING: _____

B. DATE NOTICE OF HEARING PUBLISHED: _____
(Must be at least 20 days before hearing)

C. DATE NOTICE OF HEARING MAILED TO ADJACENT PROPERTY OWNERS: _____

(Must be mailed at least 10 days before hearing)

D. APPLICANT'S NAME AND ADDRESS: _____

E. LOCATION OF PROPERTY: _____

F. LEGAL DESCRIPTION OF PROPERTY: _____

G. PRESENT ZONING: _____ PRESENT USES: _____

H. REQUESTED ZONING: _____

I. ADJACENT LAND USE AND ZONING:

	<u>LAND USE</u>	<u>ZONING</u>
North		
South		
East		
West		

J. RELATIONSHIP TO AMENDMENT CRITERIA:

1. Relationship to Comprehensive Plan Goals: _____

2. Relationship to Future Land Use Map: _____

3. Relationship to characteristics of Neighborhood: _____

4. Can land be used as zoned? _____

5. How will zone change affect adjacent property:

Traffic _____

Compatibility _____

Other _____

6. How long has land been vacant as zoned? (If applicable) _____

7. Will zone change benefit public? _____

8. Staff Recommendations _____

K. PUBLIC HEARING NOTES _____

L. RECOMMENDATION OF PLANNING COMMISSION _____

M. ACTION OF GOVERNING BODY _____

DATE _____

N. DATE OF PUBLICATION OF AMENDMENT _____

SUBDIVISION REGULATIONS

While the zoning ordinance regulates the types and intensities of land uses, Subdivision Regulations may be adopted to promote the orderly physical development of the land. Provisions of adequate public facilities and services is governed by the Subdivision Regulations. Requirements for sewer and water services, street rights-of-way, drainage, open space and other physical aspects of development of land are included in Subdivision Regulations. The "Kansas Planning Laws and Procedural Guide Outline" referenced earlier provides a review of the state statutes related to subdivision regulations.

Content of Subdivision Regulations: Prior to adoption, the proposed regulations should be reviewed for consistency with the Comprehensive Plan recommendations. The following may be included in subdivision regulations:

- 1) Location and width of streets
- 2) Building setback requirements (must be consistent with yard requirements of Zoning Ordinance)
- 3) Minimum lot width, depth, and area (consistent with Zoning Ordinance)
- 4) Provisions for floodplain protection
- 5) May require up to 10 percent of the development area be dedicated for public open space and recreation uses
- 6) Street improvement standards
- 7) Standards for placement and installation of sewer, water, and drainage facilities as well as other public and private utilities
- 8) Procedure for filing of plats of subdivided land

Adoption of Subdivision Regulations: After the proposed regulations have been reviewed by the Planning Commission and a draft has been approved, the Planning Commission may initiate the adoption process. A public hearing on the proposed regulations must be held by the Planning Commission. A public notice of the hearing must be published in the official newspaper at least twenty days before the hearing. After the public hearing the Planning Commission may forward a recommendation for approval to the Governing Body. The Governing Body must adopt the Subdivision Regulations before they may be implemented.

Amendment of Subdivision Regulations: The development standards set forth in the Subdivision Regulations may be amended as the need arises. Prior to adoption of any amendments the Planning Commission must hold a public hearing with the same requirements as above for notice of the hearing. After the Public hearing the Governing Body may act on the Planning Commission's recommendation.

Use of the Subdivision Regulations is primarily administrative as the Planning Commission must insure that all requirements are being met. The administrative procedures for Subdivision Regulations are discussed in the Planning Administration section.

CAPITAL IMPROVEMENTS PROGRAMMING

The Comprehensive Plan identifies a variety of public facilities and improvements which are needed in the future development of the community. It is often difficult to accomplish all of the recommended improvements with the annual budget. Needs must be prioritized and budgeted for in advance. If this is not done some areas of need go unattended until a crisis situation arises. Capital Improvements Programming provides an alternative to crisis situations by allowing a planned approach to budgeting for major future improvement needs. A Capital Improvement Program is a public improvement scheduling mechanism which allows the community to program and budget in advance for major construction, maintenance, replacement, and repair of the communities facilities. Capital improvements are generally considered to include buildings, sewer and water facilities, streets, major equipment items (street sweepers, fire trucks, etc.) and other items which can not be purchased from the annual operating budget. Discussed below is a brief outline of a Capital Improvement Program (CIP).

Programming Procedure

The Capital Improvements Programming procedure involves several steps which must be completed to insure the program is within the financial capabilities of the community. The major steps are:

- 1) Identification of Capital Improvement Needs: The Comprehensive Plan is the major resource for identifying needed Capital Improvements. From the Plan and information from City Departments a list of needed Capital Improvements can be developed.
- 2) Analysis of Community Financial Capabilities: This analysis should review data on current and projected tax revenues, legal debt limitations, trends in past expenditures, tax rates, and community assessed valuation. This information provides the information necessary to evaluate the community's ability to finance capital improvements.
- 3) Possible Sources of Grant Assistance: State and federal grant and/or loan programs should be reviewed by category of Capital Improvement needs to determine what types of financial assistance may be available to assist in funding of the Capital Improvements. This information supplements the financial analysis by identifying areas in which supplemental funds may be available.
- 4) Determine Project Priorities List: Based upon the above three steps the community should establish a project priority list which recognizes the financial capacity to fund needed improvements as well as recognizing the relative severity of need for certain improvements. Those projects which are needed in the near future to avoid serious problems will be ranked high while projects which are desirable but not immediately necessary are ranked lower.

- 5) Prepare Capital Improvement Program: The Capital Improvement Program is a scheduling of needed projects based on priority, usually over a five to seven year period of time. Identification of the Capital Improvement Program lists the improvements which will be addressed during the next few years.
- 6) Prepare Capital Improvement Budget: The Capital Improvement Budget details the first year's activity under the Capital Improvement Program. The Capital Budget is composed of clearly defined projects, accurate costs and specific timing for completion of each. The Capital Budget should be adopted as part of the annual operating budget while the Capital Improvement Program should be adopted by the Governing Body as the short range budgeting guide for the community.

The Capital Improvement Program adopted as described above will provide a national guide to meeting the needs identified in the Comprehensive Plan. As with the Comprehensive Plan, the Capital Improvement Program should be periodically reviewed to insure that changing needs are accommodated. Each year that a Capital Improvement Budget is adopted another year should be added to the Capital Improvement Program, based upon the Project Priorities List.

The Capital Improvement Programming Procedure is beneficial to the City administration and the community as a whole. Implementation of Capital Improvements Programming enables the community to:

- 1) Coordinate physical planning with financial planning
- 2) Encourage the equal distribution of public improvements throughout the community.
- 3) Minimize the impact of costly needed improvements on the local tax rate
- 4) Insure that the most necessary improvements are scheduled first
- 5) Program and plan for obvious deficiencies
- 6) Implement the Goals of the Comprehensive Plan

FINANCIAL GRANT AND LOAN ASSISTANCE

There are numerous state and federal financial assistance programs available to local governments. These assistance programs range from technical assistance to "hardware" construction assistance. As discussed in the Capital Improvement Program section, this financial assistance can be of help in implementing some recommendations of the Comprehensive Plan. Discussed below are some of the assistance programs now available. For further information on these programs check with your City Staff, Regional Planning Commission or Engineering and Planning Consultant.

U.S. Department of Housing and Urban Development Assistance

The U.S. Department of Housing and Urban Development (HUD) has several financial assistance programs administered by its various divisions. They include:

Small Cities Community Development Block Grants - Each year HUD accepts competitive applications for this grant program. Funds may be used for a broad range of activities, including street repairs, water and sewer line extensions, housing rehabilitation, construction of community centers, historic preservation, code enforcement, and others. Applications are ranked competitively and the number of applications usually exceeds the funds available. Generally, applications must be directly related to improvements serving older sections of town for the principal benefit of lower income persons. There is no local match required to obtain these 100% grant funds. This program is administered by the Kansas City HUD Area Office.

Housing Assistance Programs - HUD has a variety of housing assistance programs ranging from single family home repair assistance to multi-family apartment new construction. The Section 8 Housing Assistance Program can provide rent supplements to lower income persons as well as provide the loan guarantees for construction of new units. These programs are administered by the Kansas City HUD Area Office.

'701 Planning Grants - HUD '701' planning grants are available on a two-thirds federal share for one-third local share of total grant amount. These funds may be used for Comprehensive Plans, writing or revising zoning and subdivision regulations, and preparation of land use plans. Further information may be obtained from your Regional Planning Commission.

Parks and Recreation Assistance

The Heritage Resource and Conservation Service (formerly Bureau of Outdoor Recreation) has 50% grant assistance programs available. Funds may be used for park land acquisition, landscaping, and equipment improvements. Applications are accepted once a year. For more information contact your Regional Planning Commission.

Farmers Home Administration Assistance Programs

The Farmers Home Administration (FmHA) has a variety of grant and loan assistance programs available to communities with less than 20,000 total populations. Assistance is usually in the form of low interest loans which may be used for sewer and water improvements, drainage improvements, and new housing construction. Contact your County Supervisor of the Farmers Home Administration for further information.

U.S. Environmental Protection Agency Programs

This federal agency has grant programs for improvements for water and wastewater treatment facilities. Grant assistance is 75% federal funds with 25% of the total cost to be paid by the local government. These programs are administered by the State Department of Health and Environment.

There are many other federal grant and loan assistance programs available to units of government. Your Regional Planning Commission can usually answer any questions you might have about financial assistance needs. Application requirements vary from program to program and it is often necessary to obtain outside help to properly submit such applications. Many programs are competitive in nature and there is no guarantee a community will receive funds. However, assistance programs do exist and your community and its taxpayers may benefit if such programs are investigated during the initial shares of a project.

ADMINISTRATION

THE VICTORIAN

ADMINISTRATIVE

PLANNING ADMINISTRATION

The zoning and subdivision regulations provide that certain administrative measures be followed as growth and development occurs. To assist the Planning Commission, this section outlines the administrative procedures and provides sample forms and checklists for effective administration.

ZONING

The zoning ordinance provides that the Board of Zoning Appeals may grant variances and exceptions in accordance with the terms of the zoning ordinance. Variances may be granted when it is found that strict interpretation of district regulations will cause an unnecessary hardship on a property owner. Special exceptions, sometimes called conditional uses, may be granted only as specified by the zoning ordinance. The Board of Zoning Appeals is the only body which may grant variances and special exceptions. The Board should consist of 3 to 7 members appointed by the Governing Body. One member of the Board may be on the Planning Commission. Procedures for acting on variances and conditional uses are described below. Sample checklists and application forms are provided in the Appendix.

Granting of Variances - Variances are normally requested to obtain relief from yard area requirements and setback requirements. Strict enforcement of these requirements may place a hardship on certain property owners to the extent that the owner may not be able to make full use of the property. In order to grant a variance the Board of Zoning Appeals must hold a public hearing on the request. A legal notice of the hearing must be published at least twenty days prior and adjacent property owners within 200 feet of the property in question must be notified in writing at least ten days prior. Before acting on the variance request and at the public hearing, the Board must find that all of the following conditions have been met:

- 1) The conditions of the request are unique to the property
- 2) Approval of the request will not adversely affect adjacent property
- 3) Strict enforcement of the district regulations will place an unnecessary hardship on the applicant
- 4) Approval will not adversely affect the public health, safety, and welfare
- 5) Approval will not be opposed to general intent of the zoning ordinance.

After public hearing and upon finding that the above conditions have been met, the Board of Zoning Appeals may approve the requested variance and notify the Building Inspector so that a permit may be issued. If the request is denied the Building Inspector should also be informed to insure compliance with the zoning ordinance.

Granting of Special Exceptions - District regulations often provide for special uses to be permitted if they meet specific conditions related to such things as parking, fencing, setbacks, site design, and others. These conditions are clearly stated in the regulations and provide for the protection of adjacent property in the same district if such special uses are developed. In order to grant a special exception permit a public hearing with proper notification as described for variances is required. The Board of Zoning Appeals may grant a special exception if, after review and public hearing, it is found that the request conforms to the conditions set forth in the ordinance. The Board may not grant a special exception where not specifically authorized by the ordinance and the request must meet all requirements set forth for the special use. The Building Inspector should be notified of the action taken by the Board.

TO THE BOARD OF ZONING APPEALS:

APPLICATION FOR VARIANCE

APPLICATION NO. _____

DATE FILED _____

DATE FEE PAID AND AMOUNT _____

NAME OF APPLICANT _____

ADDRESS _____

A variance is requested from the requirements of Section _____
in the Zoning Ordinance as it relates to the property located at _____
_____, legally described as _____

The property in question is presently zoned _____.

The variance is requested for the following reasons:

*Submit a sketch showing property dimensions, building locations, and other helpful information.

*Submit a list of all owners of property within 200 feet of the property in question.

The applicant hereby declares that all information contained herein is accurate.

Signed _____
(Owner)

VARIANCE CHECKLIST

APPLICATION NO. _____
DATE FILED _____
DATE FEE PAID _____

- A. DATE OF PUBLIC HEARING: _____
B. DATE NOTICE OF HEARING PUBLISHED: _____
(must be at least 20 days before hearing)
C. DATE NOTICE MAILED TO ADJACENT PROPERTY OWNERS: _____
(must be at least 10 days before hearing)
D. NAME AND ADDRESS OF APPLICANT: _____

E. ADDRESS AND LEGAL DESCRIPTION OF PROPERTY IN QUESTION: _____

F. PRESENT ZONING OF PROPERTY: _____ PRESENT USE _____

G. ZONING AND LAND USE OF ADJACENT PROPERTY:

	<u>LAND USE</u>	<u>ZONING</u>
North		
South		
East		
West		

H. VARIANCE REQUESTED: _____

Reasons Given: _____

- I. The Board of Zoning Appeals must find the following before granting the requested variance:
- 1) Unique situation.
 - 2) Approval will not adversely affect adjacent property.
 - 3) Strict enforcement of district regulations will cause undue hardship for owner.
 - 4) Approval will not adversely affect public health, safety, and welfare.
 - 5) Approval will not be contrary to intent of zoning ordinance.

K. ACTION OF BOARD OF ZONING APPEALS: DATE _____
APPROVED _____ DISAPPROVED _____

L. DATE BUILDING INSPECTOR NOTIFIED: _____

TO THE BOARD OF ZONING APPEALS:

APPLICATION FOR EXCEPTION TO
ZONING ORDINANCE

APPLICATION NO. _____

DATE FILED _____

DATE FEE PAID AND AMOUNT _____

NAME OF APPLICANT _____

ADDRESS _____

A special use permit is requested for an exception to the Zoning Ordinance as provided in Section _____ of the Zoning Ordinance. The request is made to allow _____

on property located at _____, legally described as: _____

The above property is presently zoned _____.

The exception is requested for the following reasons:

*Submit a sketch showing property dimensions, building locations, and other helpful information.

*Submit a list of all owners of property within 200 feet of the property described above.

The applicant hereby declares that all information contained herein is accurate.

Signed _____
(Owner)

EXCEPTION CHECKLIST

APPLICATION NO. _____
DATE FILED _____
DATE FEE PAID _____

- A. DATE OF PUBLIC HEARING _____
B. DATE NOTICE OF HEARING PUBLISHED _____
(must be at least 20 days before hearing)
C. DATE NOTICE MAILED TO ADJACENT PROPERTY OWNERS: _____
(must be at least 10 days before hearing)
D. NAME AND ADDRESS OF APPLICANT _____

E. ADDRESS AND LEGAL DESCRIPTION OF PROPERTY _____

F. PRESENT ZONING OF PROPERTY _____ PRESENT USE _____

G. SECTION OF ZONING ORDINANCE WHICH PERMITS EXCEPTION REQUESTED _____

H. DOES REQUEST MEET THE TERMS OF THE ABOVE SECTION RELATED TO:

	YES	NO
1. YARD AND AREA REQUIREMENTS	_____	_____
2. BENEFIT TO PUBLIC	_____	_____
3. AFFECT ON ADJACENT PROPERTY	_____	_____
4. PHYSICAL IMPROVEMENTS	_____	_____
5. ADEQUATE UTILITIES	_____	_____
6. ADEQUATE DRAINAGE	_____	_____
7. OFF-STREET PARKING	_____	_____

I. LIST ANY ADDITIONAL CONDITIONS REQUIRED BY BOARD OF ZONING APPEALS

J. ACTION OF BOARD OF ZONING APPEALS: DATE _____
APPROVED _____ DISAPPROVED _____

K. DATE BUILDING INSPECTOR NOTIFIED: _____

SUBDIVISION REVIEW

The Subdivision Review Regulations regulate the physical development of land by insuring that adequate streets, drainage, setbacks, sewer, and water facilities are provided. Administration of the Subdivision Regulations is accomplished through the plat review process in which the Planning Commission ascertains that adequate provisions are made for the provision of necessary public facilities and services. The plat review process is started when a developer submits the required number of copies of a preliminary plat for review to the Planning Commission Staff. A preliminary plat submitted for review must be submitted at least 15 days before the meeting at which it will be considered and must be accompanied by the required filing fee. The Staff then sends copies of the plat for review comments from utilities, governmental agencies, and City departments which will be affected by the proposed development.

At the Planning Commission meeting at which a preliminary plat is reviewed the Commission should determine whether it meets the design standards and requirements of the Subdivisions Regulations, Zoning Ordinance, and the Comprehensive Plan. After their review the preliminary plat may be approved, disapproved, or approved subject to revisions. A preliminary plat must be acted on within 60 days of the filing or it is deemed to be approved. Approval of the preliminary plat grants permission to the developer to submit the final plat for final approval and filing as a legal description of subdivided land. A final plat must generally be filed within twelve months of the approval of the preliminary. If a preliminary plat is disapproved the developer must be notified within 10 days in writing of the reasons for disapproval.

When the proper filing fee and number of copies of the final plat are submitted in accordance with the 15 day review requirement, the Planning Commission then reviews it to ascertain the following:

- 1.) It conforms to the approved preliminary plat
- 2.) It conforms to all regulations of the City applicable to subdivision of land
- 3.) It complies with any conditions attached to the approval of the preliminary
- 4.) It does not cause an existing use to be violation of the zoning ordinance.

If a final plat is not acted on within 60 days it is deemed to have been approved. If it is disapproved the developer must be notified in writing within 10 days. After approval of the final plat the Chairman and Secretary must sign on the file copy of the plat and forward it to the Governing Body for their approval and the signature of the Mayor. A final plat may not be filed by the County Clerk until the appropriate signatures have been placed on the file copy.

Sample review checklists and application forms are presented on the following pages to assist the Planning Commission in the administration of the Subdivision Regulations.

APPLICATION FOR APPROVAL OF
PRELIMINARY PLAT

APPLICATION NO. _____
DATE FILED _____
DATE FEE PAID AND AMOUNT _____

NAME OF SUBDIVISION _____

GENERAL LOCATION _____

NAME AND ADDRESS OF OWNER _____

NAME AND ADDRESS OF DEVELOPER _____

NAME AND ADDRESS OF ENGINEER OR SURVEYOR _____

INFORMATION:

- A. TOTAL ACREAGE
- B. NUMBER OF LOTS
- C. PRESENT ZONING
- D. PROPOSED ZONING
- E. PUBLIC WATER SUPPLY AVAILABLE YES _____ NO _____
- F. PUBLIC SANITARY SEWER AVAILABLE YES _____ NO _____
- G. IF ANSWER TO F IS NO, SUBMIT LETTER OF APPROVAL FROM DEPARTMENT
OF HEALTH AND ENVIRONMENT

The information contained herein is correct and the owner/developer agrees to comply with all applicable regulations regarding subdivision of land.

Signed _____
(Owner)

Signed _____
(Developer)

PRELIMINARY PLAT REVIEW CHECKLIST

APPLICATION NO. _____
DATE FILED _____
DATE FEE PAID _____

NAME OF SUBDIVISION _____
NAME AND ADDRESS OF DEVELOPER _____

NAME AND ADDRESS OF ENGINEER OR SURVEYOR _____

DATE COPIES MAILED TO UTILITIES, CITY DEPARTMENTS AND OWNERS _____

DATE OF REVIEW BY PLANNING COMMISSION _____

INFORMATION

TOTAL ACREAGE _____

NUMBER OF LOTS _____

PROPOSED ZONING _____

APPROVED SEWER AND WATER FACILITIES AVAILABLE YES _____ NO _____

DO PROPOSED STREETS CONFORM TO STREET PLAN YES _____ NO _____

DRAINAGE PLAN APPROVED BY CITY ENGINEER YES _____ NO _____

ADEQUATE EASEMENTS PROVIDED YES _____ NO _____

(See review comments from utilities and others)

STREET WIDTH CONFORMS TO REQUIREMENTS YES _____ NO _____

MINIMUM YARD WIDTH AND DEPTH CONFORMS TO ZONING YES _____ NO _____

PROPER BUILDING SETBACK LINES SHOWN YES _____ NO _____

DO STREET NAMES CONFLICT WITH EXISTING NAMES YES _____ NO _____

LOTS AND BLOCKS PROPERLY NUMBERED YES _____ NO _____

ACTION OF PLANNING COMMISSION: DATE: _____
APPROVED: _____ DISAPPROVED: _____

APPLICATION FOR APPROVAL OF FINAL PLAT

PRELIMINARY PLAT APPLICATION NO. _____
DATE FINAL PLAT FILED _____
DATE FINAL PLAT FEE PAID AND AMOUNT _____
DATE PRELIMINARY APPROVED BY PLANNING COMMISSION _____

NAME OF SUBDIVISION _____

NAME AND ADDRESS OF OWNER _____

NAME AND ADDRESS OF DEVELOPER _____

NAME AND ADDRESS OF ENGINEER OR SURVEYOR _____

INFORMATION

1. TOTAL ACREAGE _____
2. NUMBER OF LOTS _____
3. PRESENT ZONING _____
4. PROPOSED ZONING _____
5. PROPOSED USE _____

FINAL PLAT REVIEW CHECKLIST

PRELIMINARY PLAT APPLICATION NUMBER _____

DATE APPROVED BY PLANNING COMMISSION _____

DATE FINAL PLAT FILED _____

DATE FEE PAID _____

NAME OF SUBDIVISION _____

DEVELOPER _____

ENGINEER OR SURVEYOR _____

INFORMATION

	YES	NO
1. FINAL PLAT CONFORMS TO APPROVED PRELIMINARY	_____	_____
2. ENGINEER AND OWNER SIGNATURES SHOWN	_____	_____
3. FINAL PLAT SHOWS LEGAL DESCRIPTION	_____	_____
4. LOCATION OF BOUNDARY MARKERS SHOWN	_____	_____
5. LEGAL DESCRIPTION HAS PROPER CLOSURE	_____	_____
6. LOTS AND BLOCKS CLEARLY NUMBERED	_____	_____
7. STREET NAMES AND WIDTHS SHOWN	_____	_____
8. PROPER SCALE	_____	_____
9. DEDICATION TO PUBLIC STATEMENTS SHOWN	_____	_____
10. FINAL PLAT GENERALLY CONFORMS TO ALL REQUIREMENTS	_____	_____

ACTION OF PLANNING COMMISSION: DATE _____
APPROVED _____ DISAPPROVED _____

DATE FORWARDED TO GOVERNING BODY _____
ACTION: APPROVED _____
 DISAPPROVED _____ DATE _____

DATE FILED WITH COUNTY CLERK _____