

SECTION 3. ADMINISTRATION (REVIEW PROCESSES)

3.1. PURPOSE OF SECTION

This Section intends to define all development review processes of this UDO and is comprised of the following components:

- A. **Summary Development Process Table (Section 3.2).** The summary table describes all development application review processes in this UDO and the review and decision-making bodies which decide them.
- B. **Review and Decision-Making Bodies (Section 3.3).** Section 3.3 describes all review and decision-making bodies with responsibilities in this UDO.
- C. **Development Review Procedures (Section 3.4).** Section 3.4 describes common development review procedures that apply to multiple review processes and each individual review process as defined in this UDO. This includes requirements for meetings, applications, hearings, and process review procedures.
- D. **Regulatory Provisions (Section 3.5).** Section 3.5 describes the regulatory provisions applicable to review processes described in this Section.

3.2. SUMMARY DEVELOPMENT PROCESS TABLE. The summary development process table lists each development review process under this UDO and the review and decision-making bodies involved in the decision making process. Processes are organized by legislative, quasi-judicial and administrative processes.

SUMMARY DEVELOPMENT PROCESS TABLE							
REVIEW PROCESS	SECTION	REVIEW AND DECISION-MAKING BODIES					
		Director	Technical Review Committee	Board of Adjustment	Planning Board	City Council	Historic District Commission
LEGISLATIVE PROCESS							
Land Use Plan Amendment	3.4.3.	R	R		RR	D	
Unified Development Ordinance Text Amendment	3.4.4.	R			RR	D	
Development Agreement	3.4.5.	R				D	
Zoning Map Amendment (Rezoning)	3.4.6.	R	R		RR	D	
Planned Development	3.4.7.	R	R		RR	D	
Vested Rights Certificate	3.4.8.	R				D	
QUASI-JUDICIAL PROCESS							
Special Use Permit	3.4.9.	R	R	D			
Variance	3.4.10.	R		D			

MONROE UDO

Appeals	3.4.11.	R		D			
Temporary Use Permit (60 Days Or More)	3.4.18.	R		D			
Certificate of Appropriateness (Major Work)	3.4.12.	R					D
ADMINISTRATIVE PROCESS							
Certificate of Appropriateness (Minor Work)	3.4.13.	D					
Minor Subdivision Final Plat	3.4.14.	D	R				
Major Subdivision Preliminary Plat	3.4.15.	D	R				
Major Subdivision Final Plat	3.4.16.	D	R				
Site and Development Plan	3.4.17.	R	D				
Temporary Use Permit (Less Than 60 Days)	3.4.19.	D					
Zoning Permit	3.4.20.	D					
Parking Plan	3.4.21.	D	R				
KEY: R = REVIEW, RR = REVIEW AND RECOMMEND, D = FINAL DECISION							

3.3. REVIEW AND DECISION-MAKING BODIES

The following review and decision-making bodies have powers and duties in administering review processes in this UDO:

- A. Planning and Development Director (Director) – Section 3.3.1.
- B. Technical Review Committee (TRC) – Section 3.3.2.
- C. Board of Adjustment (BOA) – Section 3.3.3.
- D. Planning Board (PB) – Section 3.3.4.
- E. Historic District Commission (HDC) – Section 3.3.5.
- F. City Council (CC) – Section 3.3.6.

3.3.1. PLANNING AND DEVELOPMENT DIRECTOR (DIRECTOR)

- A. **Designation and Responsibility.** The Planning and Development Director, who may be referred to in this UDO as the “*Director*”, is an administrative official that leads the planning and development services staff of the City. The Director is authorized to act through aides and assistants and is responsible as the administrator of this UDO. The Director shall administer and enforce this UDO and may request the assistance of any appropriate officer or agency of the City.
- B. **Powers and Duties.** The Director will have the following powers and duties:
 1. **Administration and Enforcement.** The Director will administer and enforce the provisions of this UDO.
 2. **Interpretation.** The Director will make written interpretations of this UDO setting forth the reasons and explanation therefore.
 3. **Zoning Map Amendment.** The Director will review general and conditional district rezoning requests.
 4. **UDO Text Amendment.** The Director will review amendments to the text of this UDO.
 5. **Land Use Plan Amendment.** The Director will review amendments to the future land use map within Forward Monroe.
 6. **Special Use Permit.** The Director will review special use permits.

7. **Planned Development.** The Director will review planned development applications.
8. **Variance.** The Director will review variance requests.
9. **Vested Rights.** The Director will review requests to confirm a vested right for a property.
10. **Appeals.** The Director will review appeals.
11. **Certificate of Appropriateness.** The Director will review applications for Certification of Appropriateness for minor work.
12. **Minor Subdivision Final Plat.** The Director will approve, approve with conditions, or deny minor subdivisions.
13. **Major Subdivision Preliminary Plat.** The Director will review and approve, approve with conditions, or deny major subdivision preliminary plats for major subdivisions.
14. **Major Subdivision Final Plat.** The Director will approve, approve with conditions, or deny final plats for major subdivisions.
15. **Site Plan Review.** The Director will review and upon recommendation by the TRC approve, approve with conditions or disapprove site plans.
16. **Temporary Use Permit.** The Director will review and approve or deny temporary use permits less than 60 days.
17. **Zoning Permit.** The Director will approve or disapprove zoning permit applications.
18. **Parking Plan.** The Director will approve or disapprove parking plans.
19. **Administrative Adjustment.** The Director may approve minor modifications administratively per G.S.160D-705(c).- Reserved.
20. **Changes to UDO.** The Director may correct typographical errors, numerical reference errors, spelling errors, and errors in section or page numbering, and may make other non-substantive editorial changes to the text of this ordinance without formal adoption by the CC, provided that such changes do not change the meaning of the ordinance. Any changes made pursuant to this Section must be documented to the CC and made a part of their regular meeting minutes.

3.3.2. TECHNICAL REVIEW COMMITTEE (TRC)

A. Designation and Responsibility.

1. The Technical Review Committee, referred to in this UDO as the “TRC”, is an administrative body consisting of the various staff departments related to development at the City. The TRC shall be determined by the Director and may be revised from time to time. Members of the TRC include Planning, Engineering, Building Standards, Fire, Energy Services, and Water Resources departments. Other City departments or outside agencies with specific expertise may be called upon to provide review and recommendation determined by the Director, depending on the nature and complexity of the development project to review.

B. Powers and Duties. The TRC has the following powers and duties:

1. **Zoning Map Amendment.** The TRC will review general and conditional district rezoning requests.
2. **Land Use Plan Amendment.** The TRC will review amendments to the future land use map within Forward Monroe.
3. **Special Use Permit.** The TRC will review special use permits.
4. **Planned Development.** The TRC will review planned development applications.
5. **Minor Subdivision Final Plat.** The TRC will review minor subdivision plats.
6. **Major Subdivision Preliminary Plat.** The TRC will review preliminary plats for major subdivisions.
7. **Major Subdivision Final Plat.** The TRC will review final plats for major subdivisions.
8. **Site Plan.** The TRC will review and approve and or deny site plans.

3.3.3. BOARD OF ADJUSTMENT (BOA)

A. Appointment and Terms of Board of Adjustment.

1. **Generally.** The Board of Adjustment (BOA) shall consist of at least 5 members, appointed by CC, and at least two alternate members also appointed by CC.

- a. Members of the BOA shall be residents of the city and shall be appointed by CC; one member may reside outside of the City but within the extraterritorial jurisdiction (ETJ)
 - b. Each alternate member, while attending any regular or special meeting of the BOA and only while serving in the absence of any regular member, shall exercise all the powers and duties of a regular member.
2. **Member Term.** BOA members shall be appointed for three-year staggered terms expiring on December 31st.
- a. Members may serve two consecutive terms.
 - b. Any vacancy in the membership shall be filled for the unexpired term.
 - c. Members may continue to serve until their successors have been appointed.

B. Rules of Procedure.

1. **Generally.** The BOA shall adopt rules for the transaction of its business and shall keep a record of its members' attendance and its resolutions, discussions, findings and recommendations, which record shall be public record.
2. **Meetings of the Board of Adjustment.** The BOA shall adopt a regular meeting schedule.

In addition, the BOA may hold such special meetings as the conduct of its business may require. All meetings and hearings shall be open to the public.
3. **Quorum.** No official business of the BOA may be conducted without a quorum present..
4. **Participating and Voting.** The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari.
 - a. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

b. Once a member is physically present at a BOA meeting, any subsequent failure to vote will be recorded as an affirmative vote unless the member has recused himself or herself, or been excused in accordance with the paragraph below.

c. A member shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. In addition, a member who was not present at the hearing at which evidence relevant to the matter at issue was taken shall not vote on the matter. **d.**

Board Member Attendance. Any member of the BOA who misses more than three consecutive regular meetings, or more than half of the regular meetings in a calendar year shall be subject to removal and replacement by CC..

C. Powers and Duties. The BOA shall have all the powers and duties as authorized by state law, and in the manner provided for in this UDO. Generally, such power and duties shall include, but not be restricted to, the following:

1. Special Use Permits.
2. Variances.
3. Temporary Use Permit (60 Day or more)
4. Appeals.

D. Reconsideration of BOA Action.

1. Whenever the BOA disapproves an application on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective board for a period of one year unless the applicant clearly demonstrates that:
 - a. Circumstances affecting the property that is the subject of the application have substantially changed; and/or

- b. New information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis must be filed with the administrator within the time period for an appeal to superior court. However, such a request does not extend the period within which an appeal must be taken.
2. Notwithstanding subsection (1), the BOA may at any time consider a new application affecting the same property that an application has been previously denied for. A new application is one that differs in some substantial way from the one previously considered.

3.3.4. PLANNING BOARD (PB)

A. **Appointment and Terms of Planning Board Members.**

1. **Generally.** The Planning Board (PB) shall consist of eleven regular members appointed by CC.
 - a. Members shall be residents of the City of Monroe and shall be appointed by CC; one member may reside outside of the City but within the extraterritorial jurisdiction (ETJ)
 - b. In addition to the forgoing regular members, one member of the Monroe Youth Council shall serve as an ex officio, non-voting, uncompensated member. The Monroe Youth Council shall select the Youth Council ex officio member at the time it elects officers annually.
 - c. Alternate members shall be appointed for the same term, at the same time, and in the same manner as a regular member.
 - d. Each alternate member, while attending any regular or special meeting of the PB and serving in the absence of any regular member, shall exercise all the powers and duties of a regular member.
 - e. Alternate members shall serve on the PB in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Each alternate member serving on behalf of any regular member has all the powers and duties of a regular member.

- f. Alternate members shall not serve in the absence or temporary disqualification of the member who is a resident of the extraterritorial zoning jurisdiction, nor shall alternate members fill the vacancy of the position to be occupied by the resident of the extraterritorial zoning jurisdiction. Members may be removed for cause by the CC.
2. **Member Terms.** PB members shall be appointed for four-year staggered terms expiring on December 31st.
 - a. Members may serve two consecutive terms.
 - b. Any vacancy in the membership shall be filled for the unexpired term.
 - c. Members may continue to serve until their successors have been appointed.

B. Rules of Procedure.

1. **Generally.** The PB shall adopt rules for transaction of its business and shall keep a record of its members' attendance and of its resolutions, discussions, findings, and recommendations, which shall be a public record.
2. **Meetings of the Planning Board.** The PB shall adopt a regular meeting schedule.
 - a. The PB may hold such special meetings as conduct of its business may require.
 - b. All meetings shall be open to the public.
 - c. The PB shall keep minutes of its proceedings, showing the vote of each member upon every action or, if absent or failing to vote, indicate such fact.
 - d. Unless otherwise provided by law, all records and minutes shall be public record.
3. **Quorum.** No official business of the PB may be conducted without a quorum present.
4. **Participating and Voting.** The concurring vote of a majority of the board shall be required on all matters. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari.
 - a. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not

be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

Once a member is physically present at a PB meeting, any subsequent failure to vote will be recorded as an affirmative vote unless the member has recused himself or herself, or been excused in accordance with the paragraph below.

- b. Members shall not vote on any advisory or legislative decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. In addition, a member who was not present at the hearing at which evidence relevant to the matter at issue was taken shall not vote on the matter.
5. **Attendance.** Any member of the PB who misses more than three (3) consecutive regular meetings or more than half the regular meetings in a calendar year shall be subject to removal and replacement by the CC.

C. **Powers and Duties.** The following shall be the responsibility of the PB:

1. **Generally.** The PB shall provide an advisory function, except where otherwise noted, to assist in making decisions pertaining to amendments to the comprehensive plan and this UDO, and applications for development approval.
2. **Prepare Plans.** The PB shall prepare and recommend to the CC, and from time to time amend and revise a recommended comprehensive and coordinated plan for the physical, social, and economic development of the area. It shall prepare and recommend to the CC policies, ordinances, administrative procedures and other means for promotion of the orderly development along lines indicated in the

comprehensive plan and advise it concerning proposed amendments of such ordinances.

3. **Zoning Map Amendment.** The PB shall review and recommend to CC general and conditional district rezoning requests.
4. **UDO Text Amendment.** The PB shall review and recommend to CC proposed UDO text amendments.
5. **Land Use Plans.** The PB shall review and recommend to CC proposed land use plans and amendments.
6. **Planned Development.** The PB shall review and recommend to CC proposed planned developments.
7. **Other Duties.** The PB may perform any other duties that may lawfully be assigned to it.

3.3.5. HISTORIC DISTRICT COMMISSION (HDC)

A. Appointments and Terms of Historic District Commission.

1. **Generally.** The purpose of the *Historic District Commission* (HDC) is to identify, protect, and preserve Monroe's historic architectural resources and to educate the public upon those resources and historic preservation.
 - a. The HDC serves as an advisory board to the CC and as a quasi-judicial body which makes decisions on proposals for exterior changes to or demolition of any properties as well as new construction within Historic Districts.
 - b. The HDC consists of seven (7) members appointed by the CC; two (2) additional members may be appointed as alternates.
2. **Member Terms.** Members of the HDC shall serve terms of four (4) years. A member may be reappointed for a second consecutive term, but after two (2) consecutive terms a member shall be ineligible for reappointment until one (1) calendar year has elapsed from the date of the termination of their second term.
3. **Qualifications.** All members of the HDC shall be residents of the territorial zoning jurisdiction of the city, and a majority of the members shall have demonstrated special interest, experience or education in history or architecture.

B. Rules of Procedure.

1. **Generally.** The HDC shall adopt rules for the transaction of its business and shall keep a record of its members' attendance and its resolutions, discussions, findings and recommendations, which record shall be public record.
2. **Meetings.** The HDC shall adopt a regular meeting schedule. In addition, the HDC may hold such special meetings as the conduct of its business may require. All meetings and hearings shall be open to the public.
3. **Quorum.** No official business of the HDC may be conducted without a quorum present.
4. **Participating and Voting.** The majority of the HDC board shall be necessary on all decisions.
 - a. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

Once a member is physically present at a HDC meeting, any subsequent failure to vote will be recorded as an affirmative vote unless the member has recused himself or herself, or been excused in accordance with the paragraph below.
 - b. A member shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. In addition, a member who was not present at the hearing at which evidence relevant to the matter at issue was taken shall not vote on the matter.

5. Attendance. Any member of the HDC who misses more than three (3) consecutive meetings, or more than half the regular meetings in a calendar year shall be subject to removal and replacement by the CC.

6. Annual Report. An annual report shall be prepared and submitted by June 30 of each year to the CC. The annual report shall include a comprehensive and detailed review of the activities, problems and actions of the HDC, as well as any budget requests and/or recommendations.

7. Minutes. The HDC shall keep permanent minutes of all its meetings. The minutes shall record attendance of its members and its resolutions, findings, recommendations, and actions. The minutes of the commission shall be a public record.

C. Powers and Duties. The Historic District Commission is authorized and empowered to undertake such actions reasonably necessary to the discharge and conduct of its duties and responsibilities.

1. To recommend to the PB, districts or areas to be designated by ordinance as "historic districts."
2. To recommend to the PB that designation of any district or area as a historic district be revoked or removed.
3. To consider and approve or deny applications for Certificates of Appropriateness (COA) for major work.
4. To give advice to property owners concerning the treatment of the historical and visual characteristics of their properties located within a district, such as color schemes, gardens and landscape features, and minor decorative elements.
5. To propose to the CC changes to this subchapter or any related ordinance and to propose new ordinances or laws relating to a historic district or relating to the total program for the development of the historical resources of the city and its environs.
6. To cooperate with other city boards or commissions or other governmental units; to offer or request assistance, aid, guidance or advice concerning matters under its purview of mutual interest.

7. To publish information about, or otherwise inform the owners of properties within a district of any matters pertinent to its duties, organization, procedures, responsibilities, functions or requirements.
8. To undertake programs of information, research or analysis relating to any matters under its purview.
9. To report violations of this subchapter or related ordinances to the local official responsible for enforcement.
10. To assist city staff in obtaining the services of private consultants to aid in carrying out programs of research or analysis.
11. To recommend to the CC and the state districts worthy of national, state or local recognition.
12. To initiate and participate in negotiations with owners and other parties in an effort to find means of preserving buildings scheduled for demolition.
13. To establish guidelines under which the Director may approve certificates of appropriateness for minor work. No application shall be denied without first being considered by the commission.
14. To conduct hearings on applications for certificates of appropriateness.
15. To organize itself and conduct its business by whatever legal means it deems proper.
16. To exercise such other powers and perform such other duties as are required elsewhere by this subchapter, the General Statutes of North Carolina or the CC.

3.3.6 CITY COUNCIL (CC)

- A. **Purpose and Intent.** The CC is the elected body of the City of Monroe. Additional information for CC may be found in Chapter 30 of the Monroe, North Carolina, Code of Ordinances.
- B. **Responsibilities.** The CC shall review and decide applications for:
 1. Annexation
 2. Land Use Plans and Amendments
 3. Unified Development Ordinance Amendments
 4. Development Agreements
 5. Zoning Map Amendments

6. Planned Developments
7. Vested Rights

3.4. REVIEW PROCESSES

3.4.1. DEVELOPMENT REVIEW PROCEDURES

A. Purpose and Intent.

1. This Section describes the standard procedural steps and rules generally applicable to all development applications reviewed under this UDO.
2. The procedures provided in this Section are utilized by the City for the processing of applications for development permits or approvals.
3. It is the intent of this Section to establish a uniform set of procedures for development applications to be more effective and efficient for applicants, adjacent properties, elected officials and City staff.
4. The use made of property may not be substantially changed, and substantial clearing, grading, or excavation may not be commenced, and buildings or other substantial structures may not be constructed, erected, moved, or substantially altered except in accordance with and pursuant to this UDO.
5. Any deviation from these procedures, other than those required by statute, shall not be grounds for invalidating an otherwise valid decision.

B. Pre-Application Meeting.

1. The purpose of a pre-application meeting is to provide an opportunity for the applicant to meet with City staff to learn about the submittal requirements, procedures, and standards applicable to a particular development application.
2. The pre-application meeting also provides an opportunity for City staff to become familiar with the proposed project, and offer preliminary comments about the scope of the proposed development, as it relates to the standards in this Ordinance.
3. The pre-application meeting is not required but is encouraged.

C. Applications.

1. Development applications reviewed under this Ordinance shall be submitted by the landowner, contract purchaser, agent, or other person having a recognized property interest in the land on which development is proposed.
2. City staff shall establish application content and forms, which shall be maintained by the Director. The Director may change requirements for submission of required information when, in the Director's opinion, such information is otherwise available or is not necessary to review the application.
3. The CC shall establish application fees, which shall be identified in the City's adopted fee schedule and may amend and update those fees as necessary.
4. No application shall be considered for review until it is deemed complete. If the application is incomplete, the Director shall notify the applicant of their deficiencies. A complete application shall:
 - a. Contain all information and materials as required in the application form as designated by City staff;
 - b. Provide the number of copies required per the application;
 - c. Be signed by the person with the authority to file the application;
 - d. Be legible and printed to scale;
 - e. Include information in sufficient detail to evaluate whether or not the application complies with the applicable review standards in this Ordinance; and
 - f. Include the required fee for the particular type of application.

If the application is incomplete, the Director shall notify the applicant of the deficiencies.

D. Neighborhood Meeting. The purpose of the neighborhood meeting is to inform owners and occupants of nearby lands about a development application that is going to be reviewed at an upcoming public hearing. The neighborhood meeting also provides an opportunity for the applicant to hear comments and concerns about the development proposal prior to the public hearing process. The neighborhood meeting is intended to provide general awareness of development applications, and as a means of resolving potential conflicts and concerns with nearby landowners.

1. Neighborhood meetings are not required but are strongly encouraged.
2. Neighborhood meetings may be conducted up to ten (10) days prior to PB meeting and comply with the following procedures:

- a. Applicant will notify at a minimum all property owners within 150 feet of the petitioned property via first class mail at least ten (10) days prior to the neighborhood meeting and shall include the following:
 - i. Date & time of meeting
 - ii. Location of the meeting
 - iii. Address/parcel number of the property being proposed for development.
 - iv. Property owners' and applicants' contact information and statement describing the purpose of the meeting.
- b. Applicant will notify homeowner associations (if applicable).
- c. If a neighborhood meeting is held it shall take place in a public or community space as close as possible to the site where the development is proposed.

E. Staff Review of Applications.

1. **Application.** City staff shall establish required application forms and associated required content. Applicants shall fully complete any required application and provide all associated required content.
2. **Fees.** The CC shall establish and maintain required application fees. Fees may be updated as required. No formal action or approval shall be given until all required application fees are paid in full.
3. **Application Submittal.** Applications and associated fees shall be submitted to the City for staff review. An application will not be considered officially submitted unless it is deemed complete.
4. **Completeness Review.** Upon receiving an application, the review authority responsible for initial review shall ensure that all required information is provided in the application.
 - a. Contains all information and materials as required for submittal of the particular type of application;
 - b. Provides the number of copies required for application submittal;
 - c. Is signed by the person with the authority to file the application;
 - d. Is legible and printed to scale;

- e. Includes information in sufficient detail to evaluate whether or not the application complies with the applicable review standards in this Ordinance; and
 - f. The appropriate fee is submitted for the particular type of application.
5. **Formal Review.** After staff deems an application complete, the application shall be considered as officially submitted. Staff shall begin formal review of the application.
- a. The application shall be distributed to all appropriate review bodies within the City.
 - b. Each appropriate review body shall review and comment on the application. If any deficiencies exist, review bodies shall contact the applicant and inform them of said deficiencies. The applicant shall be provided opportunity to discuss any deficiencies and resubmit any required information in the form of a resubmittal.
 - c. Upon receiving all required information, the appropriate review body shall deem the application complete through formal review and summarize its findings in a staff report to be reviewed by the decision body and discussed at a public hearing (if required).
6. **Conflicts of Interest.** No staff member shall make a final decision on an administrative decision required by G.S. 160D if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship.

F. Public Meeting and Hearing Notice Requirements

- 1. **Public Meetings and Public Hearings.** Public Meetings and Public Hearings shall comply with the Quasi-Judicial and Legislative provisions below.
- 2. **Public Notice Requirements.** Notice shall be given as follows:

Table 3.4.1.

TABLE 3.4.1. PUBLIC NOTICE REQUIREMENTS				
APPLICATION TYPE	APPROVING AUTHORITY	TYPE OF REQUIRED NOTIFICATION		
		PUBLISHED NOTICE	MAILED NOTICE	POSTED NOTICE
LEGISLATIVE PROCESSES				

MONROE UDO

Land Use Plan Amendment	City Council	X	X	X
Unified Development Ordinance Text Amendment	City Council	X		
Development Agreement	City Council	X		
Zoning Map Amendment (Rezoning)	City Council	X	X	X
Planned Development	City Council	X	X	X
Vested Rights Certificate	City Council	X	X	X
QUASI-JUDICIAL PROCESS				
Special Use Permit	Board of Adjustment		X	X
Variance	Board of Adjustment	X	X	X
Appeals	Board of Adjustment	X	X	X
Temporary Use Permit (60 Days or More)	Board of Adjustment	X	X	X
Certificate of Appropriateness	Historic District Commission	X	X	X
KEY: X = Required				

1. **Published Notice Requirements.** Published notices shall identify the date, time and place of the public meeting or hearing, describe the subject property by address, describe the scope of proposed development, and identify a method to contact the City for questions regarding the proposed development. In any instance where the provisions of G.S. 160D-601 require a published notice, the review authority shall ensure the required notice is published in a newspaper that is regularly published once per week and has general circulation within the City.
2. **Mailed Notice Requirements.** Mailed notices shall identify the date, time and place of the hearing, describe the subject property by address, describe the scope of proposed development, and identify a method to contact the City for questions regarding the proposed development. In any instance where the

provisions of G.S. 160D-406 or -602 require a mailed notice, the review authority shall ensure the mailed notice is completed in accordance with the following:

- a. Mailed notices shall be provided to the applicant, landowner, and all landowners entitled to receive notice in accordance with G.S. 160D-406 or -602;
 - b. The required mailed notice shall be sent via United States first class mail;
 - c. A copy of the mailed notice shall be kept in the offices of the review authority for public record purposes;
 - d. Notice shall be provided at least ten (10) days but not more than twenty-five (25) days prior to the date of the hearing.
3. **Posted Notice Requirements.** Posted notices shall identify the date, time and place of the public hearing, describe the subject property by address, describe the scope of proposed development, and identify a method to contact the City for questions regarding the proposed development. In any instance where the provisions of G.S. 160D-406 or -602 require a posted notice, the notice shall be placed prominently on the site that is the subject of the hearing, or on an adjacent street or highway right-of-way, at least ten (10) days, but not more than twenty-five (25) days, prior to the date of the hearing.
4. **Legislative Public Hearings.** Legislative public hearing shall be held in accordance with all State law and comply with the following requirements:
- a. Legislative public hearings are not quasi-judicial in nature.
 - b. The legislative public hearing shall be open to the public and attendees shall be allowed opportunity to comment.
 - c. The provisions of G.S. 160D-308, -309, -109, shall apply with respect to Oath, Conflicts of Interest and record keeping.
 - d. Decisions for legislative public hearing applications shall be decided by a simple majority vote.
 - e. Revisions may be made to an application during a public hearing in response to recommendations or suggestions of the review/approval authority. Any required or necessary modifications to the application shall be provided to City staff prior to issuance of any permit approvals.
5. **Quasi-Judicial Evidentiary Hearings.** Quasi-judicial evidentiary hearings shall be held in accordance with all State law and G.S. 160D-406. Quasi-judicial

evidentiary hearings and rulings must be based upon only the evidence received by the review/approval authority at the hearing and comply with the following requirements:

- a. Testimony and evidence may be provided by any party in attendance. The party shall be afforded a reasonable opportunity to provide testimony, ask questions, or cross examine an applicant and City staff.
- b. The administrator or staff to the review authority shall transmit to the review authority all applications, reports, and written materials relevant to the matter being considered and comply with G.S. 160D-406(c).
- c. The chair or officer of the review/approval authority may exclude or limit incompetent evidence and/or personal attacks.
- d. The applicant, City, and any person who would have standing to appeal the decision under G.S. 160D-14-2(d) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the review authority.
- e. The review/approval authority shall act as a fact-finding body and make a decision in accordance with evidence presented.
- f. Ex parte communications are prohibited between applicant or affected party and a member of the review/approval authority.
- g. Any conflict of interest (perceived or actual) shall be disclosed and a review/decision authority member shall not participate in or vote on any quasi-judicial matter if a conflict of interest exists.

G. Conditions of Approval. Conditions of approval shall comply with the following:

1. Conditions of approval are limited to a conditional rezoning and quasi-judicial processes;
2. Conditions of approval shall be limited to conditions necessary to ensure compliance with the UDO, or to prevent or mitigate adverse effects from the proposed development;
3. Any condition of approval shall be set forth in any official notice of decision or permit approval; and

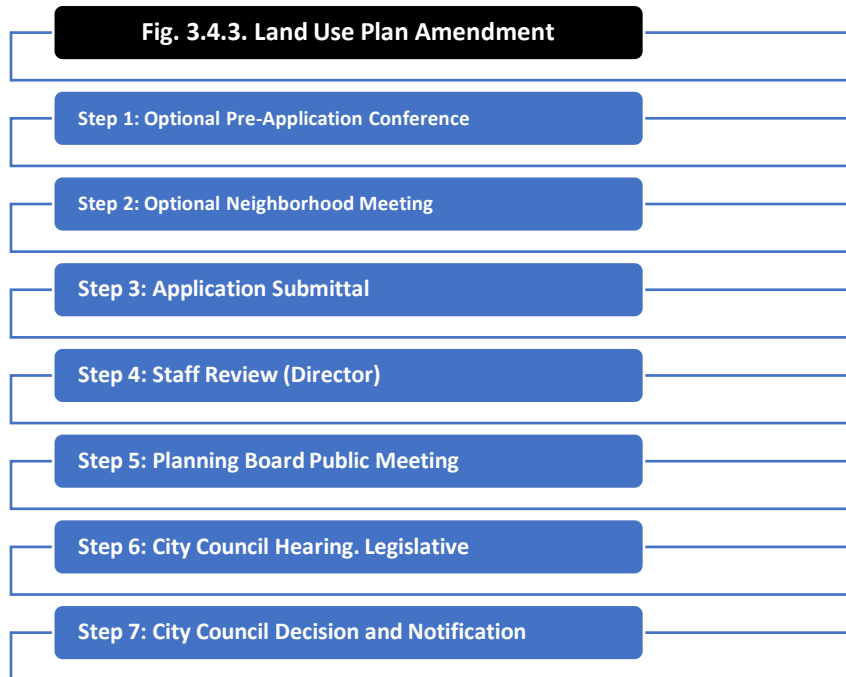
4. Conditions of approval may be proposed by applicant, City staff, or the particular review/approval authority.
5. Only those conditions mutually approved by the CC and the applicant may be incorporated into a conditional district rezoning.

H. **Timing.**

1. **Continued Hearings.** The particular approval authority or applicant may continue a public or evidentiary hearing to a subsequent date. No further notice of a continued hearing need be published. A request continue a hearing may be approved if the applicant needs additional time to gather additional information, gather additional public input, or prepare additional evidence.
2. **Withdrawal.** An applicant may withdraw an application at any time and is subject to any incurred fees.
3. **Subsequent Applications.** If an application is denied, no application proposing the same or similar development on the land may be submitted within one year after the official date of denial.

3.4.2. RESERVED

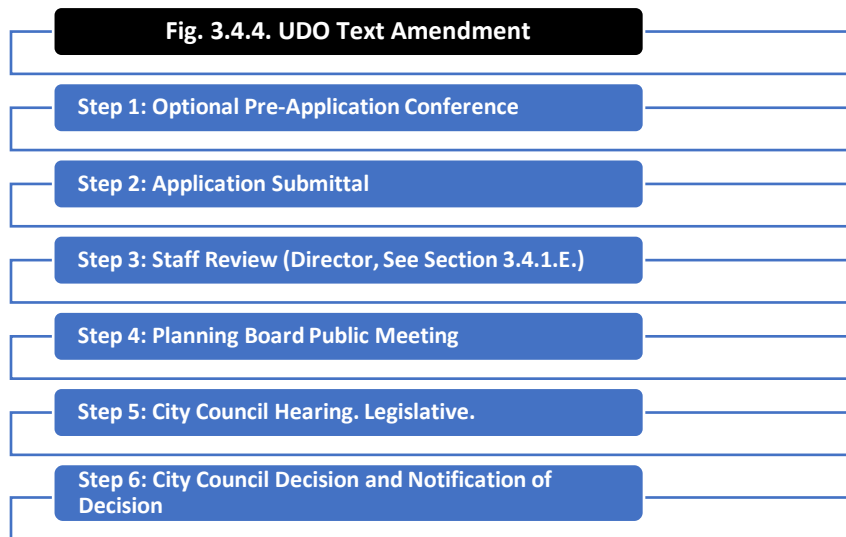
3.4.3. LAND USE PLAN AMENDMENT



- A. **Purpose.** The purpose of a land use plan amendment is to allow for modification of the land use character area (future land use) map within Forward Monroe, modifying the future land use of a subject property. This provides a uniform means to modify the Forward Monroe plan whenever a public necessity, changed conditions, or general welfare of the City require to do so.
- B. **Application.** A land use plan amendment shall be reviewed by the Director, PB, and approved in a public hearing by the CC. All applicable common application procedures defined in 3.4.1: Development Review Procedures must be met.
- C. **Review Process.** Changes to the future land use of a property shall occur through a public hearing process and shall be reviewed by the Planning and Development Department for consistency with the regulations of this UDO, Forward Monroe, and any other relevant City ordinances and adopted plans as defined in Section 3.4.1: Development Review Procedures. A staff report by the Planning and Development Department shall be provided to the PB and CC in their public hearings.
- D. **Planning Board Public Meeting.**
1. Criteria. The PB will review the proposed request in a public meeting.

2. Decision. The PB shall vote to recommend approval of the request to CC or vote to recommend denial of the request to CC.
- E. **City Council Public Hearing.**
1. Criteria. The CC will review the proposed request under legislative discretion, taking into consideration all relevant comments from City staff, TRC, and the PB.
- F. **Decision.** The CC shall adopt the amendment as proposed, adopt a revised amendment, deny the amendment or refer the amendment request back to the PB for further consideration.
- G. **Effect.** Any changes to the future land use map shall be made as soon as possible after the approval by CC.

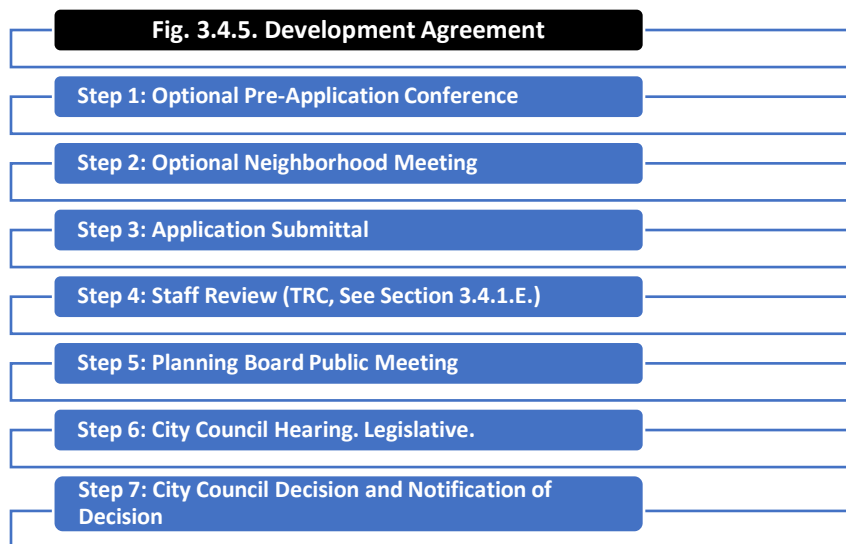
3.4.4. UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT



- A. **Purpose.** The purpose of a UDO text amendment (text amendment) is to allow for a means to amend the text of this UDO.
- B. **Application.** A text amendment shall be reviewed by the Director and PB and be approved in a public hearing by the CC. A text amendment shall meet all applicable common application procedures defined in 3.4.1: Development Review Procedures
- C. **Review Process.** A text amendment shall occur through a public hearing process and shall be reviewed by the Planning and Development Department for consistency with the regulations of this UDO and any other relevant City ordinances and adopted plans as defined in Section 3.4.1: Development Review Procedures. A staff report by the Planning and Development Department shall be provided to the PB and CC.
- D. **Planning Board Public Meeting.**
1. **Criteria.** The PB will review the proposed request in a public meeting.
 2. **Decision.** The PB shall vote to recommend approval of the request to CC or vote to recommend denial of the request to CC. A brief statement describing whether the action is consistent or inconsistent with approved plans.
- E. **City Council Public Hearing.**
1. **Criteria.** The CC will review the proposed request under legislative discretion, taking into consideration all relevant comments from City staff and the PB.

2. **Decision.** The CC shall vote for approval of the request or vote to deny the request. The CC may add additional requirement or modify proposed language with consent of the applicant.
 - a. The CC may approve the text amendment as requested, adopt a revised amendment, or deny the amendment.
 - b. A brief statement describing whether the action is consistent or inconsistent with approved plans.
- F. **Effect.** Any changes to the UDO text shall be made as soon as possible after approval of the application by CC.

3.4.5. DEVELOPMENT AGREEMENT

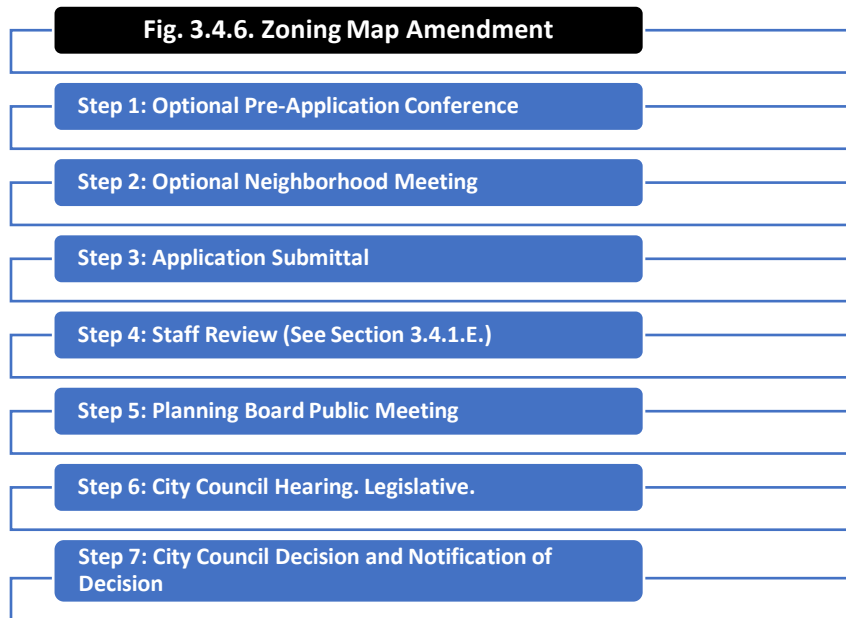


- A. **Purpose.** The purpose of a development agreement is to allow a process for the establishment and review of large-scale, multi-phased development projects with an expected build out date of several years.
- B. **Application.** A development agreement shall be reviewed by the Director and or their designee and approved in a public hearing by the CC and meet all applicable common application procedures defined in 3.4.1: Development Review Procedures
- C. **Review Process** Development agreements shall occur through a public hearing process and shall be reviewed by the Planning and Development Department for consistency with the regulations of this UDO and any other relevant City ordinances and adopted plans as defined in Section 3.4.1: Development Review Procedures. A staff report by the Planning and Development Department shall be provided to the CC.
- D. **City Council Public Hearing.**
1. **Criteria.** The CC will review the proposed request under legislative discretion, taking into consideration all relevant comments from the Director.
 2. **Decision.** The CC shall vote for approval of the request or vote to deny the request. The CC may add additional requirement or modify proposed language with consent of the applicant.

E. Development Agreement Review Standards

1. The City may not make any commitment that is unauthorized by general or local act and may not impose any unauthorized taxes or fees.
2. Development agreements shall be reviewed once a year for compliance with the agreement on file.
3. Development agreements may be amended or canceled by consent of all parties to the agreement.
4. Development agreements shall last for the duration of its agreed upon term.

3.4.6. ZONING MAP AMENDMENT (REZONING)



- A. **Purpose.** The purpose of a zoning map amendment (rezoning) is to review and decide upon a proposed amendment to the Official Zoning Map.
- B. **Application.** Zoning districts on the Official Zoning Map may be amended per the requirements of this Section. A zoning map amendment shall be reviewed by the TRC and the PB. A PB public meeting is required. CC has final decision making authority. All applicable common application procedures defined in 3.4.1: Development Review Procedures, must be met. If the rezoning application submitted to Planning and Development does not conform to all applicable regulations, the applicant shall resubmit the plans to Planning and Development for redistribution and review. The following may submit an application for an amendment in each respective situation:
1. **Planning Board or City Council.** The PB or CC may request a rezoning other than to a conditional district.
 2. **Owner of Property.** The owner of property, or one having financial or close interest in the property with the written consent of the owner, may institute an application for a change in the zoning classification of that particular property.
- C. **Review Process.** A rezoning shall occur through a public hearing process and shall be reviewed by the Planning and Development Department for consistency with the

regulations of this UDO and any other relevant City ordinances and adopted plans as defined in Section 3.4.1: Development Review Procedures. A staff report by the Planning and Development Department shall be provided to the PB and CC in their public hearings.

1. **Rezoning Review Process.** The procedure for a rezoning shall be used for both a general rezoning and conditional rezoning. A conditional rezoning includes conditions agreed to by the applicant and the City that shall limit development or seek modifications from the standards in this UDO. Applications for a conditional rezoning may not change to a general rezoning application. The application must clearly state which type of rezoning (general or conditional) is being sought.
 - a. **Conditional Zoning.** This Section establishes the option of conditional zoning within the City of Monroe. Conditional zoning provides an alternative to general zoning within the City which allows flexibility in addressing standards to this UDO. As part of conditional zoning, unique site specific conditions may be assigned to the property by City Council (with agreement by the landowner). The following standards apply:
 - i. Conditional zoning is defined as a legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.
 - ii. A site plan may be approved as part of a conditional zoning. If it is incorporated as a condition in conditional zoning, it is part of that legislative decision.
 - iii. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to local government ordinances, plans adopted pursuant to G.S. 160D-501, or the impacts reasonably expected to be generated by the development or use of the site.
 - iv. Minor modifications in conditional district standards that do not involve a change in uses permitted or the density of overall development permitted by be reviewed and approved administratively. Any other modification of the conditions and

standards in a conditional district shall follow the same process for approval as a zoning map amendment.

- v. If multiple parcels of land are subject to a conditional zoning, the owners of individual parcels may apply for modification of the conditions so long as the modification would not result in other properties failing to meet the terms of the conditions.
- vi. Any modifications approved shall only be applicable to those properties who owners petition for the modification
- vii. Conditional rezoning requests shall meet all standards set forth in Section 4.6, Conditional Zoning, of this UDO.

D. **TRC Review.** The TRC shall review any rezoning request for conformance to the UDO and any other relevant City ordinances and adopted plans as defined in Section 3.4.1: Development Review Procedures.

E. **Planning Board Public Meeting.** The PB, following a public meeting, shall make a recommendation to the CC on the rezoning request and comment on its consistency with the UDO and any other relevant City ordinances and adopted plans as defined in Section 3.4.1: Development Review Procedures.

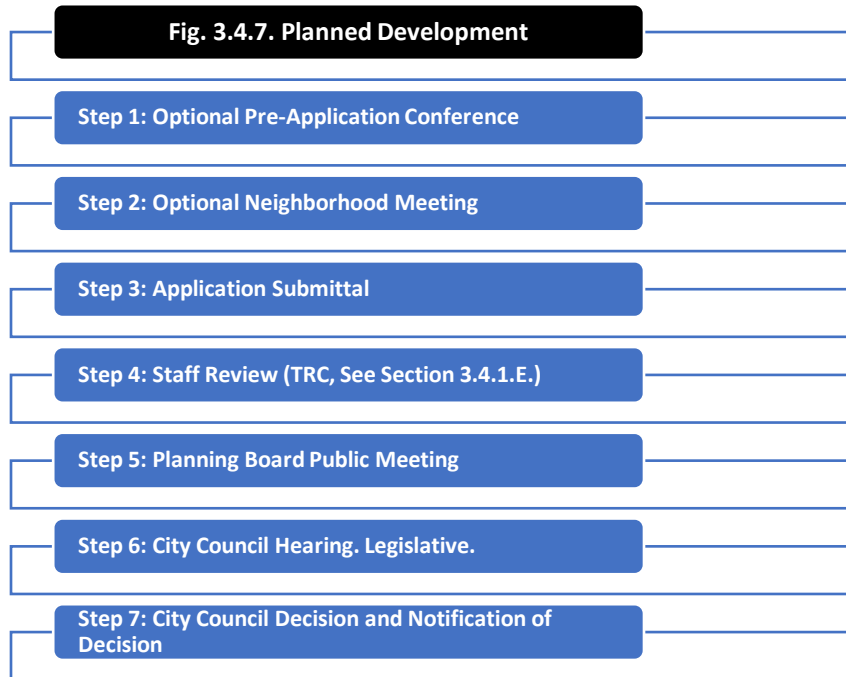
A. **Changes to Application.** The applicant may make changes, including changes recommended by the PB or CC, to the rezoning application at any time prior to the CC's decision.

B. **City Council Public Hearing.**

1. The CC may attach conditions to the rezoning requirements in addition to those required in this UDO. The CC may modify and/or adjust any numerical requirement of this UDO within an amendment if the modification or adjustment meets the intent of the Forward Monroe Plan and provides a development of equal or great quality.
2. The CC shall adopt a consistency statement and a statement of reasonableness for rezoning per G.S. 160D-605.
3. The CC, at the conclusion of a public hearing, shall decide under legislative discretion, one of the following:

- a. Adoption of the rezoning as proposed;
 - b. Adoption of a revised rezoning; or
 - c. Denial of the rezoning.
4. A note must appear on the land use character area map when a rezoning is approved that is not consistent with the map. The land use character area map is deemed amended when an inconsistent rezoning is approved per G.S. 160D-605(a).
- C. **Effect.** Any property subject to a rezoning shall have its zoning districts modified on the Official Zoning Map as soon as possible after approval of the rezoning by CC. Any property subject to a conditional rezoning shall be subject to all standards and conditions agreed upon and approved during the rezoning process. Approved rezoning requests shall not expire.

3.4.7. PLANNED DEVELOPMENTS



A. **Applicability.** Approval of a planned development and a corresponding planned development master plan (PDMP) is required for a Planned Commerce Development (PCD) and Planned Unit Development (PUD). Standards specific to planned developments are defined in Section 4.5: Planned Districts.

B. **Purpose.**

1. Planned Commerce Developments (PCD) and Planned Unit Developments (PUD) (also referred to as “*planned developments*”) are intended to provide uniform means for amending the Official Zoning Map to establish a PCD or PUD zoning district.
 - a. The planned development districts provide an orderly, master plan style development with a mix of land uses and intensities for master planned commercial and residential developments.
 - b. Planned development districts are developed under unified control in accordance with flexibility for innovative design and procedures that are conducive to creating mixed-use, pedestrian-oriented development that makes efficient use of land.

2. Planned developments allow for creation of customized, planned development standards and deviations from design standards requirements set forth in this UDO, but not from permissible uses. In return for a higher quality of development with more amenities than might otherwise result from a strict application of standards in the Ordinance.
3. A planned development must be approved along with a *Planned Development Master Plan* (PDMP). A planned development may only be obtained through an amendment (rezoning) and is required to go through the amendment process set forth in this UDO. Planned developments allow for modification of standards found in this UDO, as per this Section.

C. Modification Standards.

1. Except as noted in this Section, development in a planned development must conform to all applicable provisions of this UDO. In no circumstance may a PCD or PUD modify process or administrative related requirements as set forth in this UDO.
2. Each planned development shall conform to Section 8.7: Non-Residential Design Standards.
3. Modifications may be requested from design standards as part of the PDMP.
4. Design modifications shall be indicated at time of filing of any planned development application and shall be labeled and identified on the PDMP.
5. Any proposed design modification shall be accompanied by a narrative explanation demonstrating that the modification is necessary and how potential adverse impacts shall be mitigated.

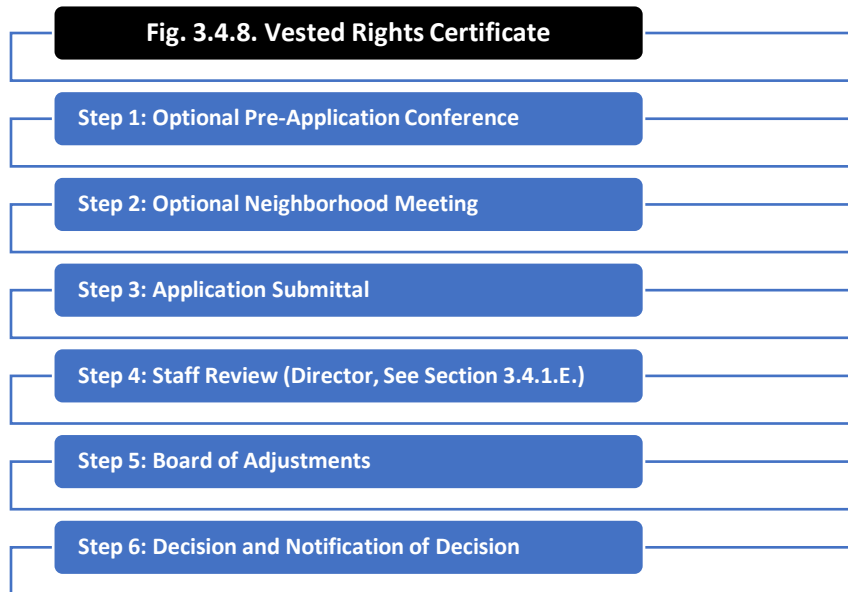
D. Application Requirements. All PCDs and PUDs shall be required to submit a Planned Development Master Plan (PDMP). If the application submitted does not conform to all applicable regulations, the applicant shall resubmit the plans to the Planning and Development Department for redistribution and review. A PDMP may be separated into multiple pages and maps and shall contain, at minimum:

1. Proof of unified control; PCDs and PUDs shall be planned and developed as a whole in a single development operation or approved programmed phases of development;
2. Existing conditions map;

3. General layout map showing boundaries of the planned development district, density/intensity of land uses in built areas, landscaped areas, buffers, vehicular use areas, parking areas, street network and street types, and pedestrian and multimodal systems.
 4. Proposed location of all buildings. The building locations, to allow for a level of flexibility, do not need to show exact layout and configuration, but shall show at minimum areas where proposed buildings shall be located and the minimum setbacks proposed;
 5. Maximum square footage of non-residential uses;
 6. Maximum number of dwelling units (if applicable) and housing types;
 7. Parking plan;
 8. Utilities plan;
 9. Tree conservation plan;
 10. Stormwater plan;
 11. Phasing plan (if applicable);
 12. Traffic impact study;
 13. Master sign plan;
 14. Indicate height of all proposed structures;
 15. Development standards must be clearly defined and include all proposed uses, setback requirements for structures, lot dimensions, maximum height, parking, lighting, and landscaping.
 16. Any proposed standards to be modified (as allowed per this Section) as part of the approval process. If a standard is not listed as being modified, the standard set forth in the UDO shall apply.
- E. **Approval Process.** PCDs and PUDs (which require a rezoning) shall follow the approval process for a rezoning as defined in Section 3.4.6: Zoning Map Amendment (Rezoning).
- F. **Administrative Changes to a Planned Development Master Plan.** The Director may administratively approve amendments to planned development master plans after approval if any of the following alterations occur:
1. A change in allowable residential density, total number of dwelling units not to exceed 10%.
 2. A change in non-residential square footage, not to exceed 10%.

3. Minor changes in location of a building, parking, or accessory uses. A minor change will not exceed 100' in distance from the approved location and shall not be located closer than 50' to any property line.
 4. Exchange of open space area.
 5. Exchange of stormwater facilities of like size, provided the relocation of the facility is not within 50' of the boundary line of the PD.
- G. **Other Changes to a Planned Development Master Plan.** Any other change or amendment to a PDMP following approval shall be subject to the rezoning process defined in Section 3.4.6.

3.4.8. VESTED RIGHTS CERTIFICATE



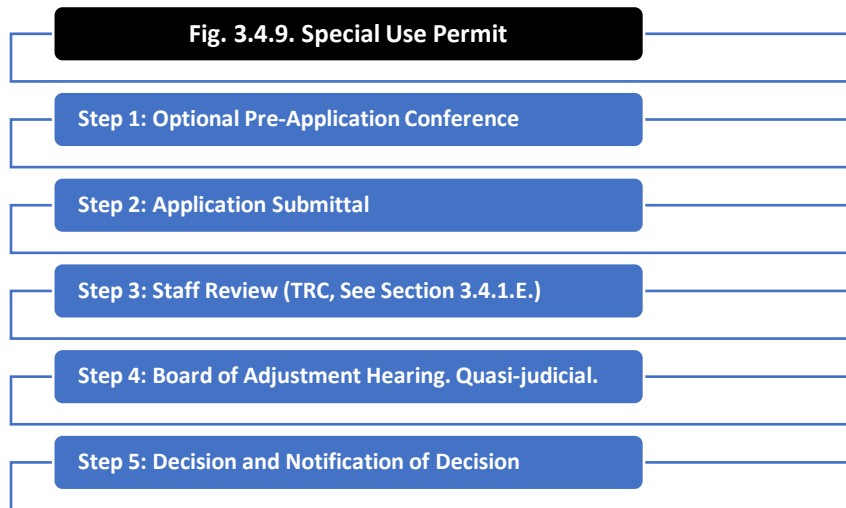
- A. **Purpose.** The purpose of this Section is to conform to G.S. 160D-108 , recognize that local government approval of development typically follows significant investment in site evaluation, planning, development costs, consultant fees, and related expenses, and to establish a clear procedure for an applicant to receive reasonable certainty, stability, and fairness in the development regulation process to secure the reasonable expectations of landowners, and foster cooperation between the public and private sectors in land-use planning and development regulation. These provisions strike an appropriate balance between private expectations and the public interest.
- B. **Permit Choice.** If an application made in accordance with local regulation is submitted for a development approval required pursuant to North Carolina General Statutes and this UDO, and a development regulation changes between the time the application was submitted and a decision is made, the applicant may choose which version of the development regulation will apply to the application. If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit.

- C. **Process.** A person claiming a statutory or common law vested right may submit information to substantiate that claim to the Director, who shall make an initial determination as to the existence of the vested right. The Director's determination may be appealed under G.S. 160D-405. On appeal the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination, a person claiming a vested right may bring an original civil action as provided by G.S. 160D-405(c).
- D. **Types and Duration of Statutory Vested Rights.** N.C. Gen. Stat. § 160D-108 and 108.1 recognize that local government approval of development typically follows significant investment in site evaluation, planning, development costs, consultant fees, and related expenses, and to establish a clear procedure for an applicant to receive reasonable certainty, stability, and fairness in the development regulation process to secure the reasonable expectations of landowners, and foster cooperation between the public and private sectors in land-use planning and development regulation. These provisions strike an appropriate balance between private expectations and the public interest.
- a. **Process to Claim a Vested Right.** A person claiming a statutory or common law vested right may submit information in accordance with N.C. Gen. Stat. § 160D-108(h) and the establishment of a vested right is defined in N.C. Gen. Stat. § 160D-108.1(b). **Building Permits – Six Months.** Pursuant to G.S. 160D-1111-9, a building permit expires six months after issuance unless work under the permit has commenced. Building permits also expire if work is discontinued for a period of 12 months after work has commenced.
 - b. **Conditional District/Site Specific Plan/Planned Unit Development – Five Years.** Items in this subsection shall expire Five Years from date of approval unless an extension is granted by the City Council.
- E.
- F. **Miscellaneous Provisions.**
1. A vested right obtained under this Section is not a personal right, but shall attach to and run with the applicable property. After approval of a vested right under this Section, all successors to the original landowner shall be entitled to exercise such rights.
 2. Nothing in this Section shall preclude judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly

provided in this Section, nothing in this Section shall be construed to alter the existing common law.

- G. **Application.** The application shall be submitted on a form as designated by the City and include the appropriate filing fee. The applicant for a vested rights certificate/determination shall provide the Director with a completed application and copies of any documents on which the applicant is relying to establish vested rights. The application shall be reviewed by the Director and approved in a public hearing by the BOA and meet all applicable common application procedures..
- H. **Review Process.**
- a. Vested rights applications shall occur through a public hearing process and shall be reviewed by the Director for consistency with the regulations of the UDO, comprehensive plan, and any other relevant City ordinances and adopted plans. A staff report (if applicable) by the Planning Department shall be provided to the BOA.
- I. **Board of Adjustments Public Hearing.** The BOA shall hold a public hearing consistent with Section 3.3.3 above. The BOA, after public hearing, may grant approval of a vested rights request, grant approval of a revised vested rights request, or deny an application for vested rights.

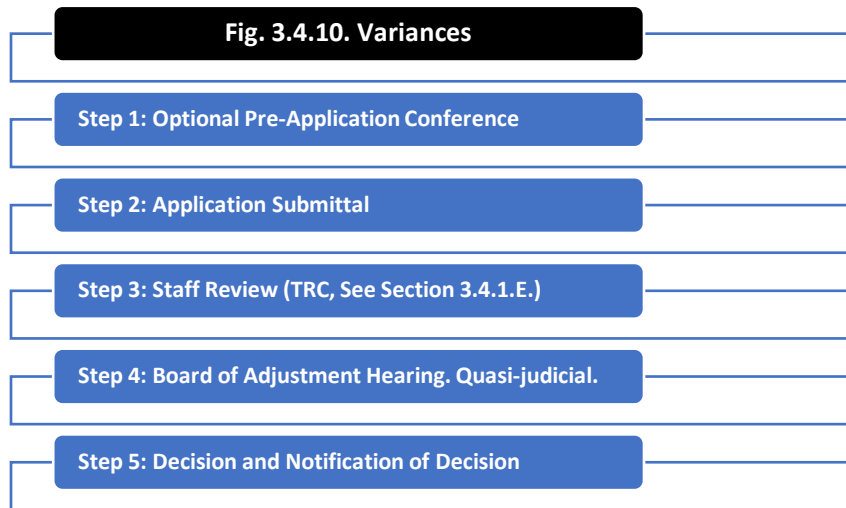
3.4.9. SPECIAL USE PERMITS



- A. **Purpose.** The purpose of special use permits is to allow for uses that may be appropriate in zoning district with additional considerations due to the nature, extent and effects of the use.
- B. **Application.** Special use permits shall be submitted to the BOA by filing the application with the Planning and Development Department. The application shall be reviewed by the TRC. If the application submitted to the TRC does not conform to all applicable regulations, the applicant shall resubmit the plans to the TRC for redistribution and review.
- C. **Review Process.**
1. The application shall be reviewed by the TRC for consistency with the regulations of this UDO and any other relevant City ordinances and adopted plans. A report shall be provided to the BOA to use in their review. The report shall state the special use permit's compliance with the UDO, as well as any staff recommendations for additional requirements to be imposed by the BOA.
 2. The BOA shall review the special use permit and hold an evidentiary hearing.
- D. **Board of Adjustment Evidentiary Hearing.**
1. Burden of Presenting Evidence. The burden of presenting a complete application is upon the applicant and the hearing shall be quasi-judicial in nature.
 2. The BOA will review the proposed special use permit under the following criteria:

- a. The proposed use does not materially endanger the public health or safety;
 - b. The proposed use meets all required conditions and specifications of the UDO;
 - c. The proposed use will not substantially injure the value of adjoining property unless the proposed use is a public necessity; and,
 - d. The proposed use will be in harmony with the area in which it is located and otherwise be in general conformity with the City of Monroe's adopted plans.
3. The BOA shall determine whether the criteria above has been met based upon the evidence submitted, and either approve the special use permit or deny the special use permit, through a simple majority vote
- E. Additional Requirements.**
1. The BOA may impose reasonable and appropriate conditions and safeguards as a condition of approval but may not waive or reduce any applicable standards set forth in this UDO if the modification or adjustment meets the intent of the Forward Monroe Plan and provides a development of equal or great quality.
- F. Effect.** A special use permit is binding and runs with the property unless amended or modified. A special use permit shall expire if construction has not begun within two years from the date of the special use permit approval by the BOA.

3.4.10. VARIANCE



- A. **Purpose.** Variances allow certain provisions of this UDO (such as height, setback, lot coverage, sign area, or other similar numerical standards) when a hardship can be demonstrated by the landowner. The hardship should be due to special circumstances or conditions (such as unique lot configuration or topographical difficulties) making the typical application of standards an undue hardship to the landowner. The BOA may grant the variance request if it concludes that strict enforcement of the ordinance would result in unnecessary hardships for the applicant and that by granting the variance, the intent of the particular ordinance provision shall be observed.
- B. **Application.**
1. Variance applications shall be submitted to the Planning and Development Department.
 2. Variances shall only be granted on the basis of hardships, i.e. that strict application of the UDO would cause unnecessary hardship on the property owner.
 3. Variances shall only be permitted for numerical standards of this UDO and may not be sought for density or to allow a use not permissible in a certain zoning district.
- C. **Review Process.**
1. The application shall be reviewed by Planning and Development Department for consistency with the regulations of this UDO and any other relevant City ordinances and adopted plans. No variance shall be approved which constitutes

a danger to the general welfare of the public. A report shall be provided to the BOA to use in their review. The report shall state the variance's departure with the typical numerical standard within the UDO, as well as any staff recommendations for additional requirements to be imposed by the BOA.

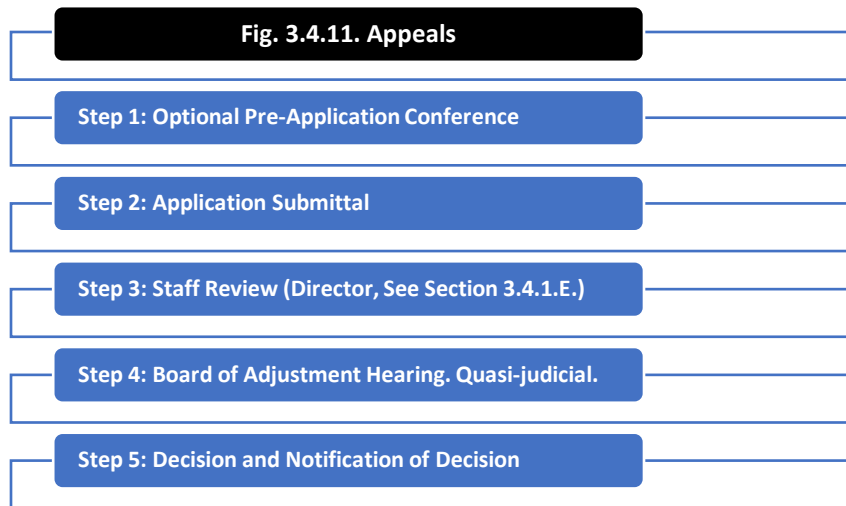
2. The BOA shall review the variance application and hold an evidentiary hearing.

D. Board of Adjustment Evidentiary Hearing.

1. Burden of Presenting Evidence. The burden of presenting a complete application is upon the applicant and the hearing shall be quasi-judicial in nature.
2. The BOA will review the proposed variance request and may vary any of the provisions of the UDO upon a showing of all of the following:
 - a. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
 - b. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance,
 - c. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
 - d. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.
3. The BOA may also consider whether the variance is the minimum necessary to make possible the reasonable use of the land, building, or structure.
4. The BOA shall vote whether the criteria above has been met based upon the evidence submitted, and either approve the request or deny the request, through a four-fifths majority. The BOA may add additional requirements but may not waive or reduce any applicable standards set forth in this UDO.

- E. **Effect.** Approval of a variance request allows for relief only from the approved portion of the UDO. All other provisions of this UDO shall be met. A variance shall not expire.

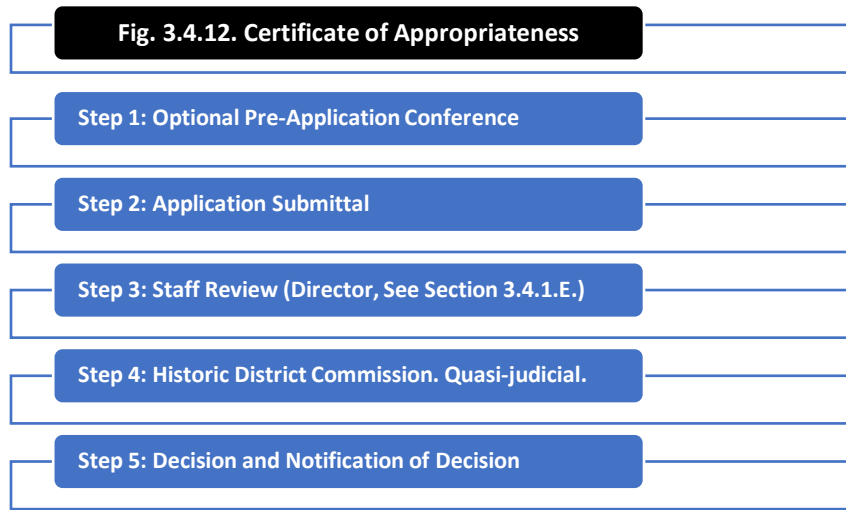
3.4.11. APPEALS



- A. **Purpose.** The BOA shall hear and decide appeals of UDO decisions of administrative officials in compliance with G.S. 160D-405. The appeal process shall allow for a predictable procedure for persons aggrieved by an official decision in the interpretation of this UDO by a review authority. Any person who has standing under G.S. 160D-1402(c) or the City may appeal an administrative decision. The applicant shall have 30 days from receipt of a written notice of a determination within which to file an appeal.
- B. **Application.** A complete application shall be submitted to the Planning and Development Director along with copies of any related plans or documents, and written copy of the decision rendered by the administrative official.
- C. **Review Process.**
1. The Director shall review the request for an appeal and forward a report to the BOA.
- D. **Board of Adjustment Hearing.** The BOA shall hold an evidentiary hearing that shall be quasi-judicial in nature. The BOA, after the hearing, may grant approval of an appeal request, grant approval of a revised request, or deny an application for an appeal through a simple majority.
1. **Criteria.** The BOA is limited to whether the review authority erred in the interpretation of the UDO and shall not hear evidence based on hardships (hardships shall be addressed through the variance process).

E. **Effect.** An appeal approval shall not expire and may not be amended.

3.4.12. CERTIFICATE OF APPROPRIATENESS (COA)



A. Certificate of Appropriateness (Major Work) (COA)

1. Generally.

- a. **Applicability.** In compliance with G.S. 160D-9047, after the designation of a landmark or a historic district, no exterior portion of any building or other structure, above-ground utility structures, or outdoor advertising sign shall be erected, altered, restored, moved or demolished until after an application for a *Certificate of Appropriateness* (COA) has been approved by the Historic District Commission (HDC) in compliance with the most recently adopted Historic District Design standards. A COA is required to be issued by the HDC prior the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving or demolishing structures. A COA shall be required whether or not a building or other permit is requested. The City and all public utility companies shall be required to obtain a COA prior to initiating any changes in the character of street paving, sidewalks, trees, utility installations, lighting, walls, fences, structures and building on property, easements, or streets owned or franchised by the City or public utility companies.

- b. **Exterior Features.** For purposes of this ordinance, “exterior features” shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs and other appurtenant features. In the case of outdoor advertising signs, “exterior features” shall mean the style, material, size and location of all such signs.
2. **Limitation on Jurisdiction Over Interior Spaces.** The HDC shall have no jurisdiction over interior arrangement and spaces.
3. **Review Process For Major Works Certificate of Appropriateness.**

 - a. **Application for COA.** An application for a COA shall be obtained from the Planning and Development Department, and when completed, filed with the Planning and Development Department.
 - b. **Contents of an Application for COA.** The application for a COA shall contain supporting details that is necessary to determine compliance with this Section and the Historic District Design standards. An application for a COA shall not be considered complete until all required supporting details have been submitted. An application for a COA shall demonstrate complete compliance with the Historic District Design standards.
 - c. **Hearing Applications of COA.** Applications shall be reviewed and acted upon within a reasonable time, not to exceed 180 days from the date the application is filed.
 - d. **Notification of Affected Property Owners.** Upon receipt of an application for a COA, adjoining property owners (within 150 feet of the subject property) are notified of the date, time, and location of the HDC meeting and general nature of the request. Notice to property owners shall include all adjoining property owners and the owners of properties located across any roadway from the affected property. The owners shall be given an opportunity to be heard.

- e. **Public Hearing.** When an application for a Certificate of Appropriateness is presented to the HDC, a quasi-judicial evidentiary hearing shall be held.
- f. **Action On An Application For A Certificate of Appropriateness.** The action on an application for a COA shall be approval, approval with modification, or denial by the HDC. Prior to any final action on an application, the review criteria in Chapter 152.058 shall be used to make findings of fact indicating the extent to which the application for a COA is or is not congruous with the historic aspects of the district or landmark. As part of its review procedure, the HDC may view the premises and seek the advice of the Department of Cultural Resources or other such experts as it may deem necessary under the circumstances.
- g. **Review Criteria for Certificates of Appropriateness.** When considering a COA, the HDC shall take into account compliance with the Monroe Historic District Design standards, architectural significance of the structure, as well as the effect of such change or additions upon other structures in the vicinity. In a historic district, it is not the intention of these criteria or the standards to require the reconstruction or restoration of individual or original buildings or prohibit the demolition or removal of same or to impose architectural styles from particular historic period. In considering new construction in a historic district, the HDC shall encourage contemporary design which is harmonious with the character of the district. The following criteria shall be considered, when relevant, along with companion design standards and the standards of the Secretary of the Interior in reviewing for a Certificate of Appropriateness.
 - i. Lot coverage, defined as the percentage of lot area covered by primary structures;
 - ii. Setback, defined as the distance from the lot lines the building;
 - iii. Building height;

- iv. Spacing of buildings, defined as the distance between adjacent buildings;
- v. Building materials;
- vi. Proportion, shape, positioning, location, pattern and sizes of any elements of fenestration;
- vii. Surface textures;
- viii. Roof shapes, form and materials;
- ix. Use of local or regional architectural traditions;
- x. General form and proportions of buildings and structures, and relationship of any additions to the main structure;
- xi. Expression of architectural detailing, such as lintels, cornices, brick bond, and decorative elements;
- xii. Orientation of the building to the street;
- xiii. Scale, determined by the size of the units of construction and architectural details in relation to the human scale and also by the relationship of the building mass to adjoining open space and nearby buildings and structures;
- xiv. Proportion of width to height of the total building facade;
- xv. Archaeological sites and resources associated with standing structures;
- xvi. Major landscaping efforts that would impact known archaeological sites
- xvii. Appurtenant features and other features such as lighting; and
- xviii. Structural condition and soundness.

4. **Certain Changes Not Prohibited.** Nothing in this UDO shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of a historic landmark or in a historic district which does not involve a change in

design, materials, or outer appearance. Nothing herein shall be construed to prevent a property owner from making any use of this property that is not prohibited by other statutes, ordinances, or regulations. Nothing in this ordinance shall be construed to prevent the maintenance or in the event of an emergency, the immediate restoration of any existing aboveground utility structure without approval by the HDC.

5. **Variations.** Structures within a historic district shall conform to the district development standards defined for each zoning district in this UDO, except when a variance is granted by the BOA in compliance with Section 3.4.10 of this UDO.
6. **Appeals.** Pursuant to 160D-947(e), appeals to a decision of the HDC must be heard by the BOA,. Any appeal from the BOA's decision shall be heard by the Superior Court of Union County.
7. **Submission of New Applications.** If a COA is denied, a new application affecting the same property may not be submitted within one (1) year from the date of denial if the plans are substantially the same. If substantial change is made in plans for the proposed construction, reconstruction, alteration, restoration or moving, a new application may be submitted.
8. **Delay of Effective Date.** An application for a COA authorizing the demolition of a building or structure within a district may not be denied. However, the effective date of such a certificate may be delayed for a period of up to 365 days from the date of approval. The maximum period of delay authorized by this Section shall be reduced by the HDC where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period the HDC may negotiate with the owner and with any other parties in an effort to find a means of preserving the building. If the HDC finds that the building has no particular significance or value toward maintaining the character of a district, it shall waive all or part of such period and authorize earlier demolition of removal.
9. **Expiration.** A COA shall expire twelve (12) months after the date of issuance if the work authorized by the COA has not been commenced. If after

commencement the work is intentionally and voluntarily discontinued or a period of twenty four (24) months or more, the permit therefor shall immediately expire. No work authorized by any COA which has expired shall thereafter be performed until a new COA has been secured.

3.4.13. CERTIFICATE OF APPROPRIATENESS (MINOR WORKS)

- A. **Minor Works.** A COA application, when determined to involve minor work, may be reviewed and approved by an administrative official (the Director) according to specific review criteria and standards. Minor work is defined as those exterior changes that do not involve substantial alterations, additions or removals that could impair the integrity of the property (and/or the district as a whole). The minor works shall be limited to those listed in the Monroe Historic District's design standards. No application involving a minor work may be denied without the formal action of the HDC.

3.4.14. MINOR SUBDIVISION FINAL PLAT

- A. **Purpose.** To review and decide on minor subdivision preliminary plats, in accordance with G.S. 160D, Article 8, Subdivision Regulation and Section 8.1: Subdivision Regulations, of this UDO. Subdivision plats shall be reviewed for compliance with the standards of this UDO and the *Standard Specifications and Detail Manual*.
- B. **Application and Approval Process.**
1. **Pre-Application Meeting.** Any subdivider of land may attend a pre-application meeting with the Director before preparing a preliminary plat. In this meeting, the Director shall relay the requirements of platting a subdivision in the UDO.
 2. **Preliminary Plat.**
 - a. Preliminary plats may be prepared and submitted to the Director for review of compliance with the regulations of the UDO. Preliminary plats shall be reviewed by the TRC.
 - b. Preliminary plats shall be prepared at a standard scale of one (1) inch equals a distance of one hundred (100) feet or less. Preliminary plats shall be prepared in accordance with the *Standard Specification and Detail Manual* requirements, Section 07.03 Subdivision Plat Checklist.
 - c. If the application submitted to the TRC does not conform to all applicable regulations, the applicant shall resubmit the plans to the TRC for redistribution and review.
 - d. The Director shall either approve, approve conditionally or deny the approval of the preliminary plat within 30 days of receipt.
 - e. Approval, conditional approval or denial shall be in written form and dated.
 - f. Preliminary plat approval for minor subdivisions constitutes tentative approval of the final plat if the final plat is in substantive agreement with the preliminary plat.
 - g. If changes are needed after recordation of the plat, a new plat is required.
- C. **Decision Authority.** The Director shall approve or deny minor subdivision final plats based upon the review and recommendation of the TRC.

3.4.15. MAJOR SUBDIVISION PRELIMINARY PLAT

- A. **Purpose.** To review and decide on major subdivision preliminary plats, in accordance with G.S. 160D, Article 8, Subdivision Regulation and Section 8.1: Subdivision Regulations of this UDO. Subdivision plats shall be reviewed for compliance with the standards of this UDO and the *Standard Specifications and Detail Manual*.
- B. **Application and Approval Process.**
1. **Pre-Application Meeting.** Any subdivider of land shall attend a pre-application meeting with the Director before preparing a preliminary plat. In this meeting, the Director shall relay the requirements of platting a subdivision in the UDO.
 2. **Sketch Plan.**
 - a. Sketch plans shall be required for any major subdivision as defined in this UDO.
 - b. Sketch plans are not required for minor subdivisions.
 - c. Sketch plans may be submitted at any time. The applicant shall submit a sketch plan to the Director for a determination of whether the approval process authorized by this Section can be and should be utilized.
 - d. The Director may require the applicant to submit whatever information is necessary to make this determination, including, but not limited to, a copy of the tax map showing the land being subdivided and all lots previously subdivided from the tract of land within the previous five years, boundary of the subject property, generalized location of water bodies, existing and proposed rights-of-way adjacent to the property, and other information deemed appropriate by the Director.
 - e. The Director shall approve, approve conditionally or deny the sketch plan within thirty (30) days of receipt.
 - f. Approval, conditional approval or denial shall be in written form and dated.
 - g. Upon approval of the sketch plan, the applicant may prepare a preliminary plat for review.
 3. **Preliminary Plat.**

- a. Preliminary plats may be prepared and submitted to the Director for review of compliance with the regulations of the UDO. The TRC shall review preliminary plats as required.
 - b. Preliminary plats shall be prepared at a standard scale of one (1) inch equals a distance of one hundred (100) feet or less. Preliminary plats shall be prepared in accordance with the Standard Specification and Detail Manual requirements, Section 07.03 Subdivision Plat Checklist.
 - c. If the application submitted does not conform to all applicable regulations, the applicant shall resubmit the plans to the TRC for redistribution and review.
 - d. The Director shall either approve, approve conditionally or deny the approval of the preliminary plat within 30 days of receipt. Approval, conditional approval or denial shall be in written and/or drawn form and dated.
- C. **Administrative Changes to Preliminary Plats.** If the preliminary plat is changed after approval by the Director, certain changes to the preliminary plat may be made subject to review from all applicable City Departments.
- D. **Decision Authority.** The Director shall approve or deny major subdivision preliminary plats.

3.4.16. MAJOR SUBDIVISION FINAL PLAT

- A. **Purpose.** To review and decide on major subdivision final plats, in accordance with G.S. 160D, Article 8, Subdivision Regulation and Section 8.1: Subdivision Regulation, of this UDO. Subdivision final plats shall be reviewed for compliance with the standards of this UDO and the *Standard Specifications and Detail Manual*.
- B. **Application.** The TRC shall review and the Director shall approve the proposed final plat unless the plat fails to comply with one or more of the requirements of this Section, or if the final plat differs substantially from the preliminary plat.
1. Approval of a final plat is contingent upon the plat being recorded within 60 days after the approval certificate is signed by the Director or his or her designee.
 2. The applicant for a subdivision plat approval shall submit to the Director a final plat, drawn in waterproof ink on a sheet made of material that will be acceptable to the Union County Register of Deed's Office for recording purposes, and having dimensions as follows: 21" x 30", 12" x 18", or 18" x 24".
 3. When more than one sheet is required to include the entire subdivision, all sheets shall be made of the same size and shall show appropriate match marks on each sheet and appropriate references to other sheets of the subdivision.
 4. The scale of the plat shall be at one (1) inch equals not more than one hundred (100) feet.
 5. The applicant shall provide all required information per the *Standard Specifications and Detail Manual*, Section 07.03 Subdivision Plat Checklist.
- C. **Performance Guarantees.** In lieu of requiring the completion, installation, and inspection of all or any part of required subdivision improvements (as described in Section 8.1: Subdivision Regulations, in this UDO) prior to final plat approval, the City permits subdividers to deposit with the City A surety bond issued by any company authorized to do business in this State, a letter of credit issued by any financial institution licensed to do business in this State, or other form of guarantee that provides equivalent security to a surety bond or letter of credit. Such financial guarantees shall be in an amount equal to 110% of the estimated cost of completing the required improvements.
- D. **Decision Authority.** The Director shall approve or deny major subdivision final plats.

3.4.17. SITE AND DEVELOPMENT PLAN (SITE PLAN)

- A. **Purpose.** To review site and development plans (site plans) for compliance with all applicable regulations defined in this UDO.
- B. **Application.** All commercial and multifamily developments shall provide a site plan.
1. Site plans shall graphically illustrate, in both a site plan view and elevation view, those elements which are publicly visible.
 2. During the review process, the Director has authority to request, or approve requests by the TRC, for studies and reports which are needed in order to make a final determination for UDO and state law compliance.
 3. If the site plan application submitted to the TRC staff does not conform to all applicable regulations, the applicant shall resubmit the plans to the TRC for redistribution and review.
 4. All applicant responses shall be described in a cover letter and clearly identified on the plans. The site plan shall include, at a minimum, but not limited to:
 - a. General layout of any proposed structures within the development, including setbacks.
 - b. General road layout
 - c. Elevation drawings of each side of the building shall be provided. The elevations shall have materials and colors rendered in such a way that each is distinct. Elevation drawings shall be accompanied by the following information for each portion of the building:
 - i. Largest distance in plan between required elevation features, and the elevation(s) on which this occurs.
 - ii. Number of features required and number present in each elevation.
 - iii. Name of each type of feature in elevation.
 - iv. Material samples shall be provided for exterior material types.
 - v. Fiber cement compositions shall be stated on the elevations.
 - vi. A graphical illustration, with narrative, explaining compliance with Section 8.7: Non-Residential Design Standards.

- vii. If located within a mixed-use district, a graphical illustration, with narrative, explaining compliance with mixed-use district architectural standards, as defined in the respective mixed-use district's development standards table in Section 5: Mixed-Use Districts.
- 5. A lighting plan shall be submitted for staff review and approval prior to issuance of building permits. The plan shall be in conformance with the standards in Section 8.7.7: Lighting, and contain the following information:
 - a. An area lighting plan, drawn to scale, indicating all structures, parking lots, building entrances, vehicular and pedestrian traffic areas, vegetation that may interfere with lighting, and adjacent land uses that may be adversely impacted by the lighting.
 - b. The plan shall contain a layout of all proposed fixtures by location, orientation, aiming direction, mounting height and type.
 - c. The submission shall include, in addition to proposed area lighting, all other exterior lighting, e.g., architectural building entrance, landscape, flagpole, sign, and the like.
 - d. A 10' X 10' illuminance grid (point-by-point) of maintained footcandles overlaid on the site plan plotted out to 0.0 foot-candles, which demonstrates compliance with light intensity standards.
 - e. The lighting plan shall confirm conformance to Section 8.7.7: Lighting, as defined in this UDO. Graphical illustrations and narrative may be required to confirm compliance.
- 6. Any other required information such as landscape plans (as defined in Section 8.3: Landscaping, Buffering, Fences and Walls), traffic impact analysis, stormwater permit, erosion control, parking plan, construction plans or performance guarantees deemed necessary by the corresponding application and UDO requirements for TRC review.
- 7. A common signage plan shall be submitted, in accordance with Section 8.2.2.I: Common Signage Plan.

C. Review Process.

1. Site and development plans shall be reviewed and approved by the TRC for conformity with this UDO. The plan shall show in sufficient detail that the proposed project meets all applicable portions of the UDO.

3.4.18. TEMPORARY USE (60 DAYS OR MORE)

- A. **Purpose.** Temporary use permits allow for specific temporary uses of a limited duration, such as grand opening events, tent sales, outdoor vehicle shows, special events, and food trucks and street vendors. (See Section 3.4.19). In situations where a temporary use is 60 days or more, the temporary use shall require a special use permit from the BOA.
- B. **Application.** A completed application form for a temporary use of 60 days or more shall be of the same form for a special use permit and shall be submitted to the Planning and Development Department.
- C. **Review Process.** A temporary use that exceeds 60 days or more shall be reviewed in the same form as a special use permit, per Section 3.4.9: Special Use Permit.

3.4.19. TEMPORARY USE PERMIT (LESS THAN 60 DAYS)

- A. **Purpose.** Temporary use permits allow for specific temporary uses of a limited duration, such as grand opening events, tent sales, outdoor vehicle shows, special events, and food trucks and street vendors. These temporary uses for less than 60 days shall be reviewed to ensure they do not cause a negative effect on adjacent land, and shall not involve the construction of any permanent building or structure.
- B. **Application.** A completed application form for a temporary use permit shall be submitted to the Planning and Development Department.
- C. **Review Process.**
 - 1. Applicants for temporary use permits shall provide a sketch plan identifying the location of all temporary structures, trailers, product display areas, parking areas, road access points and other temporary uses and improvements to the property. The Director will review the proposed request for compliance with the UDO. The Director shall approve the application as submitted, approve the application subject to conditions of approval, or deny the application as submitted s.
 - 2. subject to conditions of approval, or deny the application as submitted s.

3.4.20. ZONING PERMIT

- A. **Purpose.** A zoning permit is required for development that does not require a site and development plan. Zoning permits shall be reviewed for compliance with the provisions defined in this UDO. Zoning permits are required for:
1. Fences;
 2. Driveways and driveway extensions;
 3. Accessory Structures 12x12 feet and under;
 4. Home occupations;
 5. Family care homes;
 6. Group homes;
 7. Intermediate homes; and
 8. Childcare homes
- B. **Application.** A completed application form for a zoning permit shall be submitted to the Planning and Development Department. The Director or their designee will review and issue a decision on application consistent with the UDO.
- C. **Approval Process.** Approval shall be contingent upon the below:
1. Proposed use being permitted in the zoning district;
 2. Application and any required documents must be complete;
 3. Application must comply with all standards and requirements of the UDO.
 4. If the application meets all standards of the UDO, the application shall be approved by the Director.
- D. **Appeal.** If an applicant disagrees with the decision rendered for a zoning permit, the applicant may submit an appeal in accordance with Section 3.4.11: Appeals.
- E. **Effect.** Approval of a zoning permit shall authorize an applicant to commence construction, provided all requirements of this UDO and other applicable rules and regulations are met.
- F. **Expiration.** A zoning permit shall expire and become void if development does not commence within 180 days of permit issuance.

3.4.21. PARKING PLAN

- A. **Purpose.** A parking plan is required for any development and redevelopment with the exception of single-family residential uses. Parking plans may be reviewed concurrently with site and development plans. Parking standards are defined in Section 8.4: Parking.
- B. **Application.** Parking Plans shall be submitted to the Planning and Development Department. Parking plans shall include access points, internal circulation (including drive aisles), landscaping, pedestrian connections, materials, parking type (angle of parking), and dimensions, including but not limited to those in Section 8.4.3.C: Dimensional Standards
- C. **Approval Process.** Parking plans, unless otherwise stated, shall be reviewed by the TRC and Director for compliance with the UDO and any applicable technical standards in other City ordinances.
- D. **Alternative Parking Plans.** Alternative parking plans may be submitted in place of a parking plan in compliance with Section 8.4.2.H: Alternative Parking Plan.
- E. **Expiration.** A parking plan shall not expire unless there are changes in the number of parking spaces, or uses proposed, in the parking plan.

3.5. REGULATORY PROVISIONS

- A. **Authorizing Use, Occupancy, or Sale.**
 - 1. If in extraordinary cases, such as weather conditions (and excluding financial hardship), if it would be unreasonable to require the applicant to comply with all of the requirements of this UDO before commencing the intended use, occupancy or sale of property, the permit-issuing body may authorize commencement, as long as a performance bond to be fulfilled within twelve (12) months is provided.
 - 2. When additional conditions or requirements are required, or when additional items beyond what is required in this UDO are proposed, the permit-issuing body may authorize the permit recipient to commence if it specifies a date which such conditions, requirements, or additional items must be met. Compliance of the below requirements must be met:

- a. A performance bond or other security satisfactory to the body is furnished;
- b. A condition is imposed establishing an automatic expiration date on the permit, ensuring compliance will be reviewed when application for renewal is made;
- c. With respect to subdivisions in which the developer is selling only undeveloped lots, the Director may authorize final plat approval and the sale of lots before all the requirements of this UDO are fulfilled if the applicant provides a performance bond or other security satisfactory to ensure that all of these requirements will be fulfilled within 12 months or such other period as determined pursuant to G.S. -160D-804.1.
- d. The applicant or developer may request a one-time extension of the performance bond or other surety for an additional 6 months if the applicant or developer submits in writing to the Director the request at least 3 months prior to the expiration of the original bond for either an extension or reduction of the performance bond.

B. Completing Developments in Phases.

1. If a development is constructed in phases or stages in accordance with this UDO, then, subject to subsection (1), UDO requirements shall apply to each phase as if it were the entire development.
2. As a prerequisite to subsection (2), the developer shall submit plans that clearly show the various phases or stages of the proposed development and that the requirements of this UDO that will be satisfied with respect to each phase or stage.
3. If a development that is to be built in phases or stages includes improvements that are designed to be used by the entire development (such as amenities), then as part of the application, the developer shall submit a proposed schedule for completion of improvements. The schedule shall link completion of improvements to completion of phases. Once a schedule has been approved and made part of the permit by the permit-issuing authority, no land may be used, no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved as part of the permit.

C. Expiration of Permits.

1. Unless otherwise specified, permits shall expire automatically if work has not commenced within one year of the permit issuance date. With respect to phased development, this requirement shall apply only to the first phase.
2. If work is discontinued for a period of one year after work has commenced, the permit shall immediately expire.
3. An extension period up to six months from the expiration date may be granted by the review authority if the following circumstances exist:
 - a. the permit has not yet expired;
 - b. the permit recipient has proceeded with due diligence and in good faith; and
 - c. conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods up to six months upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.
4. For purposes of this Section, permits are considered issued when the PB or CC votes to approve the application. Permits are considered issued by the Director when the earlier of the following takes place:
 - a. A copy of the fully executed permit is delivered to the permit recipient by hand-delivery or mail; or
 - b. The Director notifies the permit applicant that the application has been approved and that all that remains before a fully executed permit can be delivered is for the applicant to take certain specified actions, such as having the permit executed by the property owner so it can be recorded if required.
5. Notwithstanding any of the provisions of the Section 10: Nonconformities, this Section shall be applicable to permits issued prior to the date this Section becomes effective.

D. Effect of Permit on Successors and Assigns.

1. Approvals and permits authorized by this Section permit the permittee to make use of land and structures in a particular way. Such approvals and permits are transferable. However, so long as the land or structures (or any portion) covered

under an approval or permit continues to be used for the purposes for which the permit was granted, then:

- a. No person (including successors or assignees) may make use of the land or structures except in accordance with all the terms and requirements of that approval or permit.
 - b. The terms and requirements of the approval or permit apply to and restrict the use of land or structures to all persons having any interest in the property and persons who subsequently obtain any interest in all or part of the property. Subsequent persons shall be notified of the approval or permit.
2. Nothing authorized by the approval or permit may be done until the owner signs a written acknowledgment that the approval or permit has been issued.