

STUDY SESSION: 4:30 P.M. – CITY COUNCIL CHAMBERS
MEETING: 5:00 P.M. – CITY COUNCIL CHAMBERS

1. Call to Order.
2. Roll Call.
3. Dispense with the reading and approve the minutes of the August 15, 2016, Regular Meeting as prepared.
4. Consider a petition of the owners of approximately 4.5 acres described as a part of the Southeast Quarter of the Northwest Quarter of Section 18, Township 17 North, Range 9 East of the 6th P.M., Dodge County, Nebraska, and more generally located at 1800 Deer Run, for annexation into the City of Fremont's corporate limits.
 - Staff report and presentation
 - Public Hearing
 - Recommendation
5. Consider a petition of the owners of approximately 0.5 acres described as a part of the South Half of the Northwest Quarter of Section 7, Township 17 North, Range 9 East of the 6th P.M., Dodge County, Nebraska, and more generally located at 3400 N Luther Rd., for annexation into the City of Fremont's corporate limits.
 - Staff report and presentation
 - Public Hearing
 - Recommendation
6. Review and consider amendments to Articles 6 and 7 of the draft Unified Development Ordinance.
 - Staff report and presentation

7. Adjournment.

THIS MEETING WAS PRECEDED BY PUBLICIZED NOTICE IN THE FREMONT TRIBUNE, THE AGENDA DISPLAYED IN THE LOBBY OF THE MUNICIPAL BUILDING AND POSTED ONLINE AT WWW.FREMONTNE.GOV IN ACCORDANCE WITH THE NEBRASKA OPEN MEETINGS ACT, A COPY OF WHICH IS POSTED CONTINUALLY IN THE COUNCIL CHAMBERS FOR PUBLIC INSPECTION, AND SAID MEETING IS OPEN TO THE PUBLIC. A COPY OF THE AGENDA WAS ALSO KEPT CONTINUALLY CURRENT AND AVAILABLE TO THE PUBLIC IN THE PRINCIPLE OFFICE OF THE DEPARTMENT OF PLANNING, 400 EAST MILITARY AVENUE. THE PLANNING COMMISSION RESERVES THE RIGHT TO ADJUST THE ORDER OF ITEMS ON THIS AGENDA.

**PLANNING COMMISSION MINUTES
REGULAR MEETING
AUGUST 15, 2016 – 5:00 PM**

PRESENT: Chairman, Dev Sookram, Commissioners, Brad Fooker, Marty Gifford, Rol Horeis, Aaron Rix, and Mitch Sawyer, and Planning Director, Troy Anderson

ABSENT: Commissioners Amber Barton, Carl Nielsen, and Brian Wiese.

1. Call to Order. Chairman Sookram called the meeting to order at 5:00 p.m.
2. Roll Call. A roll call showed six (6) members present and three (3) members absent – a quorum was established.

Chairman Sookram then read the following statement: This meeting was preceded by publicized notice in the Fremont Tribune, the agenda displayed in the lobby of the Municipal Building and posted online at www.fremontne.gov in accordance with the Nebraska open meetings act, a copy of which is posted continually in the council chambers for public inspection and said meeting is open to the public. A copy of the agenda was also kept continually current and available to the public in the principle office of the Department of Planning, 400 East Military Avenue. The Planning Commission reserves the right to adjust the order of items on this agenda. This meeting is hereby declared to be duly convened and in open session.

3. Dispense with the reading and approve the minutes of the July 18, 2016, Regular Meeting as prepared.

Chairman Sookram read the item into the record. Hearing no discussion, Sookram entertained a motion.

Motion: It was moved by Commissioner Fooker, and seconded by Commissioner Sawyer, to dispense with the reading of the minutes and approve the minutes as provided. A roll call vote showed all members present voting aye – the motion carried unanimously.

4. Consider a request of Dodd Engineering & Surveying, LLC, on behalf of Deer Pointe Corporation, owner of approximately 3.0 acres located at 1915 N Diers Parkway, for approval of a Zoning Change from AG Agricultural to R-2 Moderate-Density Residential.

Chairman Sookram read the item into the record.

Planning Director, Troy Anderson read Staff's Report.

Sookram then proceeded to open the floor to public hearing.

Hearing none, Sookram closed the floor to public hearing and opened the floor to Commission discussion and action. Hearing no discussion, Sookram entertained a motion.

Motion: It was moved by Commissioner Gifford, and seconded by

Commissioner Sawyer, to recommend approval of the Zoning Change. A roll call vote showed all members present voting aye – the motion carried unanimously.

5. Consider a request of Dodd Engineering & Surveying, LLC, on behalf of Deer Pointe Corporation, owner of approximately 4.5 acres located at 1800 Deer Run, for approval of a Zoning Change from AG Agricultural to R-1 Single-Family Residential.

Chairman Sookram read the item into the record.

Planning Director, Troy Anderson read Staff's Report.

Sookram then proceeded to open the floor to public hearing.

Hearing none, Sookram closed the floor to public hearing and opened the floor to Commission discussion and action. Hearing no discussion, Sookram entertained a motion.

Motion: It was moved by Commissioner Gifford, and seconded by Commissioner Sawyer, to recommend approval of the Zoning Change. A roll call vote showed all members present voting aye – the motion carried unanimously.

6. Consider a request of Dodd Engineering & Surveying, LLC, on behalf of Deer Pointe Corporation, owner of approximately 4.5 acres located at 1800 Deer Run, for approval of a Final Plat to be known as Deer Pointe Fourth Addition to the City of Fremont, Nebraska.

Chairman Sookram read the item into the record.

Planning Director, Troy Anderson read Staff's Report.

Sookram then proceeded to open the floor to Commission discussion and action. Hearing no discussion, Sookram entertained a motion.

Motion: It was moved by Commissioner Sawyer, and seconded by Commissioner Rix, to recommend approval of the Final Plat. A roll call vote showed all members present voting aye – the motion carried unanimously.

7. Consider a request of Olsson Associates, on behalf of The Ritz Lake, LLC, owner of approximately 83.9 acres located at 3400 N Luther Rd., for approval of a Replat to be known as Ritz Lake Replat 3, Fremont, Nebraska.

Chairman Sookram read the item into the record.

Planning Director, Troy Anderson read Staff's Report.

Sookram then proceeded to open the floor to Commission discussion and action. Hearing no discussion, Sookram entertained a motion.

Motion: It was moved by Commissioner Fooker, and seconded by Commissioner Sawyer, to recommend approval of the Replat. A roll call vote showed all members present voting aye – the motion carried unanimously.

8. Review and consider amendments to Article 6 of the draft Unified Development Ordinance.

Chairman Sookram read the item into the record.

Planning Director, Troy Anderson introduced proposed amendments to Article Six [Part 3 of 3] of the draft Unified Development Ordinance (UDO) including:

1. Reorganization;
2. Removing redundant language;
3. Revising language to accommodate content-neutrality as a result of the Reed case;
4. Clarifying distinctions between commercial and noncommercial messaging, as well as on- and off-premise advertising and elaborating on prohibitions associated with off-premise advertising;
5. General categorizing of signs as either permanent or temporary and either attached or detached; and
6. General word-smithing.

Hearing no further comments, Sookram concluded discussion of the item and proceeded to the next item on the agenda.

9. Adjournment. Hearing no further business, Chairman Sookram adjourned the meeting at approximately 6:05 p.m.

APPROVED:

Dev Sookram, Chairman

ATTEST:

Troy Anderson, Planning Director

Staff Report

TO: Planning Commission
FROM: Troy Anderson, Director of Planning
DATE: June 9, 2016
SUBJECT: Voluntary Annexation Petition – Deer Pointe Fourth Addition

Background: A Voluntary Annexation Petition has been received by Deer Pointe Corporation, requesting annexation of approximately 4.5 acres into the corporate limits.

According to Nebraska Revised Statutes § 19-929, “The municipal governing body shall not take final action on matters relating to the comprehensive development plan, capital improvements, building codes, subdivision development, the annexation of territory, or zoning until it has received the recommendation of the planning commission if such commission in fact has been created and is existent.”

The subject property is identified in the Comprehensive Plan (Plan) as a preferred or secondary area of future annexation and growth and therefore consistent with the policies of the Plan and the priorities for accommodating new development – specifically, annexing land that is immediately abutting the corporate limits and contiguous to existing infrastructure thereby allowing efficient and ready extension of streets, utilities, and police and fire protection services, and annexing land that is presently removed from the corporate limits but for which there are strategic benefits for economic development purposes.



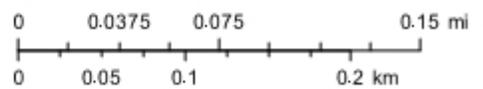
September 9, 2016

1:4,514

County Zoning

-  Agriculture - Intensive
-  Agriculture - General
-  Agriculture - Transitional
-  Residential
-  Mobile Home Residential

-  Commercial
-  Light Industrial
-  Heavy Industrial
-  Platte River Corridor
-  Parcels
-  Sections



Staff Report

TO: Planning Commission
FROM: Troy Anderson, Director of Planning
DATE: June 9, 2016
SUBJECT: Voluntary Annexation Petition – Ritz Lake Replat 3

Background: A Voluntary Annexation Petition has been received by Kent Douglas Ritthaler, requesting annexation of approximately 0.5 acres into the corporate limits.

According to Nebraska Revised Statutes § 19-929, “The municipal governing body shall not take final action on matters relating to the comprehensive development plan, capital improvements, building codes, subdivision development, the annexation of territory, or zoning until it has received the recommendation of the planning commission if such commission in fact has been created and is existent.”

The subject property is identified in the Comprehensive Plan (Plan) as a preferred or secondary area of future annexation and growth and therefore consistent with the policies of the Plan and the priorities for accommodating new development – specifically, annexing land that is immediately abutting the corporate limits and contiguous to existing infrastructure thereby allowing efficient and ready extension of streets, utilities, and police and fire protection services, and annexing land that is presently removed from the corporate limits but for which there are strategic benefits for economic development purposes.



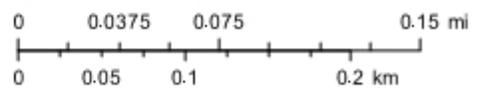
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County Zoning

-  Agriculture - Intensive
-  Agriculture - General
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-  Residential
-  Mobile Home Residential

-  Commercial
-  Light Industrial
-  Heavy Industrial
-  Platte River Corridor
-  Parcels
-  Sections



**LEGAL DESCRIPTION
PARCEL 1 ANNEXATION**

A TRACT OF LAND COMPOSED OF A PORTION OF OUTLOT "A", RITZ LAKE ADDITION, LOCATED IN THE SOUTH HALF OF THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 17 NORTH, RANGE 9 EAST OF THE 6TH P.M., DODGE COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 7, BLOCK 4, RITZ LAKE REPLAT 2, SAID POINT BEING THE SOUTHEAST CORNER OF LOT 6, BLOCK 4, RITZ LAKE ADDITION; THENCE NORTHERLY ON THE WEST LINE OF SAID LOT 7, SAID LINE BEING THE EAST LINE OF SAID LOT 6, ON AN ASSUMED BEARING OF N03°00'35"E, A DISTANCE OF 227.13' TO THE NORTHWEST CORNER OF SAID LOT 7, SAID POINT BEING THE NORTHEAST CORNER OF SAID LOT 6, SAID POINT ALSO BEING A SOUTH CORNER OF OUTLOT "A", RITZ LAKE ADDITION, SAID POINT BEING **THE TRUE POINT OF BEGINNING**; THENCE N76°37'47"E, A DISTANCE OF 73.92' TO A POINT; THENCE N61°49'42"E, A DISTANCE OF 115.10' TO A POINT OF CURVATURE FOR A NON-TANGENT CURVE IN A CLOCKWISE DIRECTION HAVING A CENTRAL ANGLE OF 171°23'11", A RADIUS OF 290.00', AN ARC LENGTH OF 867.47', A CHORD LENGTH OF 578.36', A TANGENT LENGTH OF 3,850.81', AND A CHORD BEARING OF S18°50'44"E TO A POINT; THENCE S66°50'51"W, A DISTANCE OF 130.19' TO A POINT; THENCE S89°59'40"W, A DISTANCE OF 213.72' TO A POINT; THENCE N72°35'59"W, A DISTANCE OF 207.10' TO THE SOUTHWEST CORNER OF LOT 14, BLOCK 4, RITZ LAKE REPLAT 2, SAID POINT BEING THE SOUTHEAST CORNER OF LOT 15, BLOCK 4, RITZ LAKE ADDITION, SAID POINT ALSO BEING A NORTH CORNER OF SAID OUTLOT "A"; THENCE S74°17'40"E, ON THE SOUTH LINE OF SAID LOT 14, AND ON A SOUTH LINE OF LOT 13-A, RITZ LAKE REPLAT 2, SAID LINE BEING A NORTH LINE OF SAID OUTLOT "A", A DISTANCE OF 149.96' TO A SOUTH CORNER OF SAID LOT 14, SAID POINT ALSO BEING A NORTH CORNER OF SAID OUTLOT "A"; THENCE S89°56'47"E, ON THE SOUTH LINE OF SAID LOT 13-A, AND ON THE SOUTH LINE OF LOT 13, BLOCK 4, RITZ LAKE REPLAT 2, SAID LINE BEING A NORTH LINE OF SAID OUTLOT "A", A DISTANCE OF 191.07' TO A SOUTH CORNER OF SAID LOT 13, SAID POINT BEING A NORTH CORNER OF SAID OUTLOT "A"; THENCE N77°03'57"E, ON A SOUTH LINE OF SAID LOT 13, AND ON A SOUTH LINE OF LOT 12, BLOCK 4, RITZ LAKE REPLAT 2, SAID LINE BEING A NORTH LINE OF SAID OUTLOT "A", A DISTANCE OF 193.24' TO A SOUTH CORNER OF SAID LOT 12, SAID POINT BEING A NORTH CORNER OF SAID OUTLOT "A", SAID POINT ALSO BEING A POINT OF CURVATURE FOR A NON-TANGENT CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A CENTRAL ANGLE OF 191°41'47", A RADIUS OF 275.00', AN ARC LENGTH OF 920.08' ON THE SOUTHEAST LINE OF SAID LOT 12, ON THE EAST LINE OF LOTS 11 AND 10, BLOCK 4, RITZ LAKE REPLAT 2, ON A NORTH LINE OF LOTS 9, 8 AND 7, BLOCK 4, RITZ LAKE REPLAT 2, SAID LINE BEING A WEST LINE AND A SOUTH LINE OF SAID OUTLOT "A", A CHORD LENGTH OF 547.14', A TANGENT LENGTH OF 2684.88', AND A CHORD BEARING OF N28°41'19"W TO A NORTH CORNER OF SAID LOT 7, SAID POINT BEING A SOUTH CORNER OF SAID OUTLOT "A"; THENCE S79°10'47"W, ON A NORTH LINE OF SAID LOT 7, SAID LINE BEING A SOUTH LINE OF SAID OUTLOT "A", A DISTANCE OF 91.91' TO THE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA 23,129.64 SQUARE FEET OR 0.53 ACRES, MORE OR LESS.

**LEGAL DESCRIPTION
PARCEL 2 ANNEXATION**

A TRACT OF LAND COMPOSED OF A PORTION OF OUTLOT "A", RITZ LAKE ADDITION, LOCATED IN THE SOUTH HALF OF THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 17 NORTH, RANGE 9 EAST OF THE 6TH P.M., DODGE COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

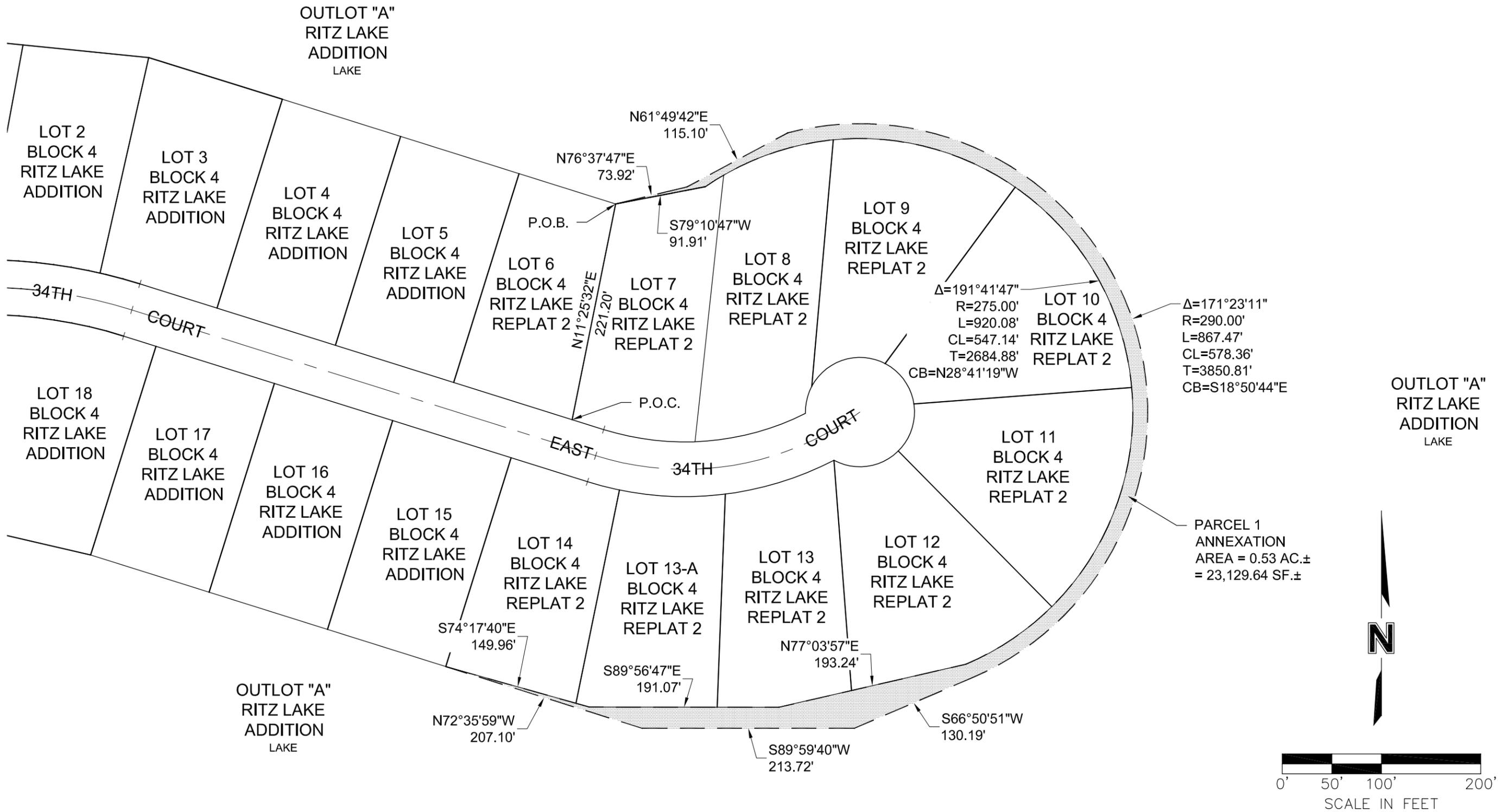
COMMENCING AT THE SOUTHEAST CORNER OF LOT 44, BLOCK 4, RITZ LAKE ADDITION, SAID POINT BEING THE NORTHEAST CORNER OF LOT 43, BLOCK 4, RITZ LAKE ADDITION; THENCE N78°55'57"W, ON THE SOUTH LINE OF SAID LOT 44, SAID LINE BEING THE NORTH LINE OF SAID LOT 43, A DISTANCE OF 223.00' TO THE SOUTHWEST CORNER OF SAID LOT 44, SAID POINT BEING THE NORTHWEST CORNER OF SAID LOT 43, SAID POINT BEING A EAST CORNER OF OUTLOT "A", RITZ LAKE ADDITION; THENCE N01°03'49"E, ON A THE WEST LINE OF SAID LOT 44, SAID LINE BEING A EAST LINE OF SAID OUTLOT "A", A DISTANCE OF 82.14' TO **THE TRUE POINT OF BEGINNING**; THENCE N06°39'36"W, A DISTANCE OF 43.10' TO A POINT; THENCE N02°03'52"W, A DISTANCE OF 25.92' TO A POINT OF INTERSECTION WITH THE WEST LINE OF LOT 45, BLOCK 4, RITZ LAKE ADDITION, SAID POINT BEING ON A EAST LINE OF SAID OUTLOT "A"; THENCE S14°34'09"E, ON THE WEST LINE OF SAID LOT 45, SAID LINE BEING A EAST LINE OF SAID OUTLOT "A", A DISTANCE OF 26.74' TO THE SOUTHWEST CORNER OF SAID LOT 45, SAID POINT BEING THE NORTHWEST CORNER OF SAID LOT 44, SAID POINT ALSO BEING A EAST CORNER OF SAID OUTLOT "A"; THENCE S01°03'49"W, ON THE WEST LINE OF SAID LOT 44, SAID LINE BEING A EAST LINE OF SAID OUTLOT "A", DISTANCE OF 42.83' TO THE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA 199.07 SQUARE FEET OR 0.005 ACRES, MORE OR LESS.

TUESDAY, AUGUST 30, 2016
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DWG: F:\Projects\20060565_SRVY\MasterXrefs\Replat-3\Drawings\006-0565_New Annex.dwg
 DATE: Aug 31, 2016 2:43pm
 USER: mjohnson
 XREFS: 006-0565_RLDRP2 MICHAEL_JOHNSON_LS_NE 006-0565_RLRP1-L31-38

PROJECT NO: 2006-0565	RITZ LAKE ANNEXATION LEGAL DESCRIPTIONS		601 P Street, Suite 200 P.O. Box 84608 Lincoln, NE 68508 TEL 402.474.6311 FAX 402.474.5160	EXHIBIT
DRAWN BY: MRJ				A
DATE: AUGUST 31ST, 2016				

DWG: F:\Projects\20060565\SRVY\MasterXrefs\Replat-3\Drawings\006-0565_New Annex.dwg
 DATE: Aug 31, 2016 2:46pm
 USER: mjohnson
 XREFS: 006-0565_RLDRP2 MICHAEL_JOHNSON_LS_NE
 006-0565_RLRP1-L31-38



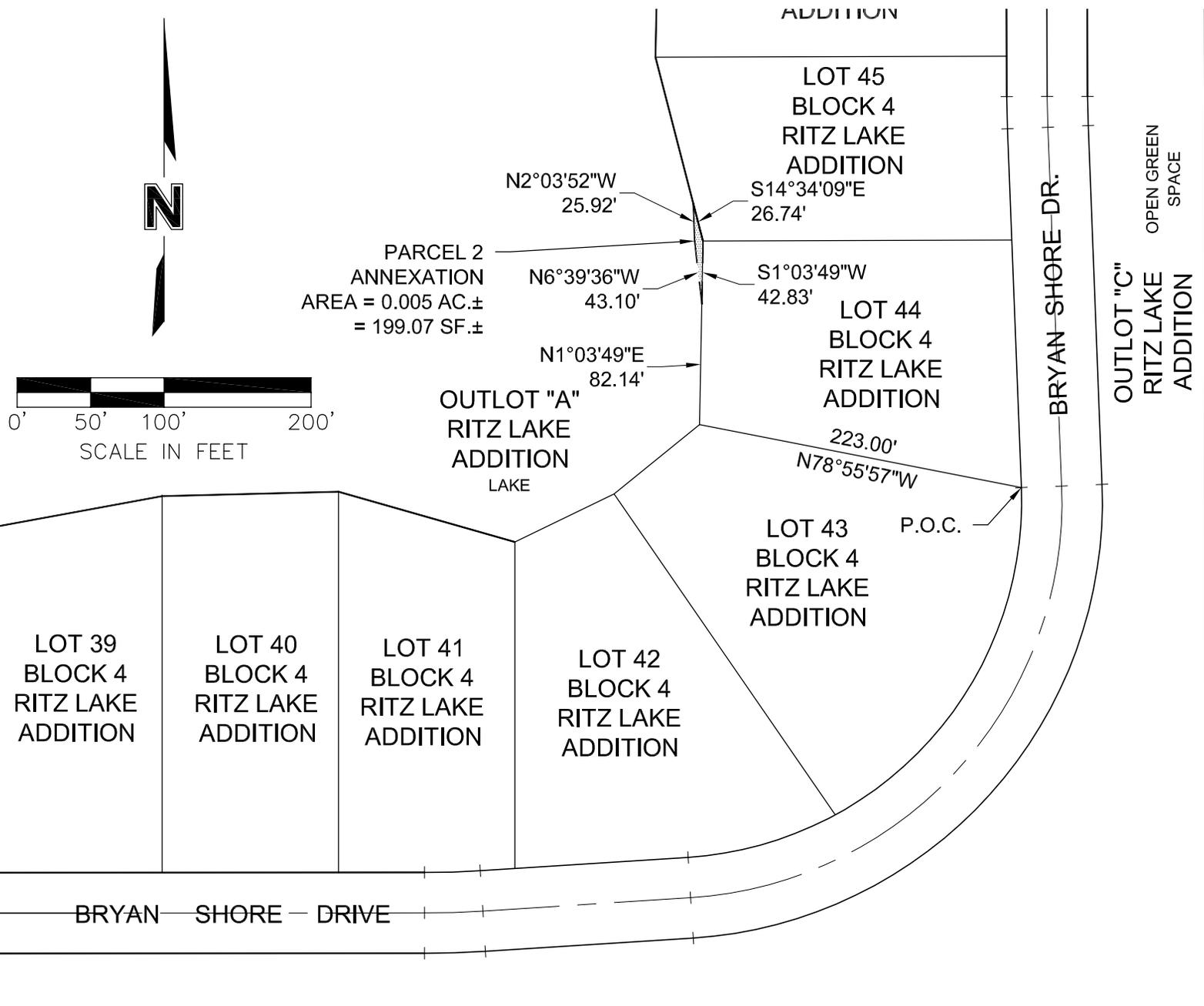
PROJECT NO: 2006-0565
 DRAWN BY: MRJ
 DATE: AUGUST 31ST, 2016

**RITZ LAKE PARCEL 1
 ANNEXATION EXHIBIT**

MOLSSON
 ASSOCIATES
 601 P Street, Suite 200
 P.O. Box 84608
 Lincoln, NE 68508
 TEL 402.474.6311
 FAX 402.474.5160

EXHIBIT
B-1

DWG: F:\Projects\20060565\SRVY\MasterXrefs\Replot-3\Drawings\006-0565_New_Annex.dwg
 DATE: Aug 31, 2016 2:45pm
 USER: mjohnson
 006-0565_RLRP1-L31-38
 XREFS: 006-0565_RLRP2 MICHAEL_JOHNSON_LS_NE



PROJECT NO: 2006-0565
 DRAWN BY: MRJ
 DATE: AUGUST 31ST, 2016

RITZ LAKE PARCEL 2 ANNEXATION EXHIBIT

MOLSSON
ASSOCIATES

601 P Street, Suite 200
 P.O. Box 84608
 Lincoln, NE 68508
 TEL 402.474.6311
 FAX 402.474.5160

EXHIBIT
B-2

Staff Report

TO: Planning Commission
FROM: Troy Anderson, Director of Planning
DATE: September 14, 2016
SUBJECT: Draft Unified Development Ordinance (UDO) Amendments – Articles 6 and 7

Background: Staff has prepared the following amendments to Articles 6 and 7 of the Draft UDO for review and consideration. Article 6 was primarily broken into three (3) parts. The first part addressed parking, loading, and access. The second part addressed landscaping, buffering, and screening. The last part addressed signage. There was however one small section following signage that pertains to exterior lighting. As part of this discussion series we have also included sections of Article 7 pertaining to administrative bodies and permits and procedures (generally). The most significant revisions include:

- Reorganization;
- Removing redundant language;
- Revising language to remain consistent with industry standards;
- Removing site plan review from Commission powers – except when forwarded by the Zoning Administrator;
- Revising “Director” to read “Zoning Administrator” to coincide with industry standard;
- Differentiating between areas of responsibility associated with public off-site improvements and private on-site improvements;
- Removing the Building Official responsibilities – these are covered by the International Code Council and are typically outside the scope of zoning regulations;
- Transferred a number of permit review authorities from the Commission to the Zoning Administrator; and
- General word-smithing.

~~[15-6]~~11-730 EXTERIOR LIGHTING

~~[Sec. 15-6]~~§11-731 Exterior Lighting Standards

~~[15-6]~~11-731.01. Purpose and Application

- A. **Purpose.** Vehicular use areas and sites are designed and lighted to promote public safety without creating undue light pollution and off-site glare onto either ~~(non)~~residential ~~and~~or mixed-use property.
- B. **Application.** All new development, redevelopment, ~~(or)~~ substantial improvements, expansions of existing development, and changes in the use(s) of existing buildings shall provide lighting which promotes public safety without creating undue light pollution and off-site glare onto either ~~(non)~~residential ~~(and mixed-uses)~~or mixed-use property.

~~[15-6]~~11-731.02. Maximum Illumination

Maximum illumination for nonresidential lighting standards includes:

- A. Outdoor lighting shall be deflected, shaded, and focused away from adjacent properties and shall not be a nuisance to such adjacent properties.
- B. Outdoor lighting shall be designed so that any ~~(overspill)~~trespass of lighting onto adjacent properties shall not exceed three-tenths (0.3) foot-candles, measured vertically, and three-tenths (.3) foot-candles, measured horizontally, on adjacent properties.
- C. The ground-level luminance ratio (the ratio between the luminance of the brightest point on the property and the darkest point on the property) shall not exceed twelve (12) to one (1).
- D. If additional light is necessary, it shall be provided within an enclosed structure.
- E. Nonresidential property adjacent to residential property shall only allow two-tenths (.2) foot-candles light ~~(overspill)~~trespass onto the residential property.
- F. Illumination of sidewalks shall not exceed five (5) foot-candles at ground level.

~~[15-6]~~11-731.03. Fixture Types

- A. **Generally.** Light fixtures shall be "full cut-off" designated or "fully shielded" fixtures that limit lighting that is visible or measureable at the property line.
- B. ~~["No-Cut-Off"]~~Unshielded Fixtures. ~~["No-Cut-Off"]~~Unshielded fixtures may be used only for decorative purposes as provided:
1. They have luminaires that produce no more than one thousand five hundred (1,500) lumens (approximately equal to a one hundred (100) watt (W) incandescent bulb);
 2. They have a maximum height of fifteen (15) feet; and
 3. They use energy-efficient bulbs, such as compact fluorescent ("CF").
- C. **Full Cut-Off and Fully Shielded Fixture Requirements.**

1. Except as otherwise allowed in this Section, all lighting (including, but not limited to street, parking lot, security, walkway, and building) shall conform with the Illuminating Engineering Society of North American ("IES") criteria for full cut-off **and fully shielded** fixtures, which is **one hundred (100)** percent of light output below **ninety (90)** degrees, and **ninety (90)** percent of light output below **eighty (80)** degrees from a vertical line through the fixture.
 2. Lighting fixtures that illuminate landscape plantings, pedestrian walkways, signage, or product display areas shall also conform to the full cut-off **and fully shielded fixture** requirement.
 3. All lighting fixtures that are mounted within **fifteen (15)** feet of a residential property line or public right-of-way boundary shall be classified as IES Type III or Type F (asymmetric forward throw). These fixtures shall be fitted with a "house side shielding" reflector on the side facing the residential property line or public right-of-way.
 4. Light fixtures used to illuminate flags, statues, or any other objects mounted on a pole, pedestal, or platform shall use a narrow cone beam of light that will not ~~extend~~**extend** beyond the illuminated object.
 5. For upward-directed architectural, landscape, and decorative lighting, direct light emission shall not be visible above the primary building roofline.
- D. **Canopy Lighting.** Canopy lighting for uses that have sheltered outside work or service areas, such as gas stations, shall meet the standards of this Subsection. All luminaires shall be recessed into the canopy so that they cannot be viewed off-site from an eye height of four **(4)** feet (to protect automobile drivers from glare).
- E. **Outside Wall-Mounted Lighting.** Outside wall-mounted lighting shall also comply with the standards of this Section, except that lighting that is required by the Federal Aviation Administration (**FAA**) shall comply with Federal Standards.

~~{15-6}~~**11-731.04. Design Requirements**

- A. **Maximum Freestanding Fixture Height.** No freestanding light fixture shall be greater than **twenty-five (25)** feet in height.
- B. **Shut-Off Controls.** The use of shut off timers is encouraged to extinguish unnecessary lighting (e.g., sensors, motion detectors, and timers).

~~{15-6}~~**11-731.05. Prohibited Lighting**

- A. **Generally.** No outdoor lighting may be used in any manner that is likely to interfere with the safe movement of motor vehicles on public thoroughfares.
- B. **Prohibitions.** The following are prohibited:
 1. Any fixed light not designed for roadway illumination that produces incident or reflected light that could impair the operator of a motor vehicle;
 2. The installation, use, or maintenance of beacons or searchlights;
 3. Lights that are mounted on the ground or poles for the purpose of illuminating a building façade where not visible from other districts or public rights-of-way; and
 4. Exposed strip lighting or neon tubing used to illuminate building facades or outline buildings or windows or flickering or flashing lights installed in like fashion, except for temporary decorative seasonal lighting.

~~[15-6]~~11-731.06. Public Safety and Public Nuisance

- A. **Generally.** The City may require the modification or removal or limited operation of existing or new lighting fixtures found to be a public hazard or public nuisance according to the criteria of this Subsection.
- B. **Hazards.** Criteria for finding illumination to be a public hazard are as follows:
1. Light trespass or glare which is sufficiently intense or contrast excessively with surrounding illumination, regardless of the intensity of the surrounding illumination, in a manner to cause impairment of visual performance or to distract from or impair the safe operation of a vehicle.
 2. Light trespass or glare that impairs a person's visual performance or ability to avoid obstacles in their path.
- C. **Nuisance.** Criteria for finding illumination to be a public nuisance are as follows:
1. Light trespass or glare that deprives an owner or occupant of usual and reasonable use and enjoyment of their property.
 2. A high frequency and/or duration of periods when light trespass or glare is sufficient to interrupt or interfere with usual and reasonable use and enjoyment of a property.
 3. Light trespass or glare that causes visual discomfort or impairment of visual performance in a manner that deprives any person from the usual and reasonable enjoyment of the public streets and properties of the City.

~~[15-6]~~11-731.07. Installation and Maintenance Standards

- A. **Generally.** The operation and maintenance cost of the exterior lighting system is the responsibility of the property owner.
- B. **Maintenance Requirements.** Exterior lighting systems shall be maintained in good working order. Maintenance shall include replacement of bulbs and light fixtures that are not working, and regular cleaning of light fixtures as needed.

~~[Sec. 15-6]~~§11-732 Reserved to ~~[Sec. 15-6]~~§11-799

ARTICLE ~~{SEVEN}~~8 ADMINISTRATIVE BODIES

~~{15-7}~~11-800 ADMINISTRATIVE BODIES

~~{Sec. 15-7}~~§11-801 Purpose

The purpose of this Section is to set out the development review bodies that are responsible for the administration of this ~~{UDO}~~UDC. This Section describes the roles and responsibilities and general rules of procedure of the City Council, Planning Commission, Board of Adjustment, and City Staff with respect to the administration of this ~~{UDO}~~UDC.

~~{Sec. 15-7}~~§11-802 Application

- A. **City Council.** The provisions of ~~Subsection~~ 15-703.01., *City Council*, are intended to establish the City Council's role with respect to decisions about individual properties pursuant to this ~~{UDO}~~UDC. No part of this ~~{UDO}~~UDC restricts or limits any other powers that are granted to the City Council by Federal Law, State Statute, or the City's Municipal Code.
- B. **Other Administrative Bodies.** The provisions of this Section that relate to other bodies are representative of the authority that the City Council has delegated to them with respect to application and enforcement of this ~~{UDO}~~UDC.
- C. **No Implied Limitation.** The provisions of this Section shall not be a limitation regarding the conduct of ~~{Boards,} Councils, {Land Planning} Commissions, and Boards~~ where additional responsibilities or authority are set out elsewhere in this ~~{UDO}~~UDC, the Municipal Code, or through policies adopted by the City Council, or by a ~~{Board, Council, or Planning} Commission or Board~~ as approved by the City Council.

~~{Sec. 15-7}~~§11-803 Bodies Established and Authorized

~~{15-7}~~11-803.01. City Council

- A. **Generally.** The City Council has all powers conferred upon it by the *Fremont Municipal Code (FMC)*, ~~{specifically Article 2, Elected Officials of Chapter 1, Administrative,}~~ and the laws of the State of Nebraska. With respect to decision-making pursuant to this ~~{UDO}~~UDC, in addition to the authorized acts of the ~~{Municipal Code}~~FMC, the City Council will exercise the powers set out in this Subsection.
- B. **Approvals.** After a public hearing is held and after reports and recommendations are provided by ~~{the Director,} a~~ Commission ~~{, or another board or commission}~~, the City Council shall hear and decide the following:
 1. Plans and programs for the development and redevelopment of its area of jurisdiction. This includes, but is not limited to, amending the text and maps of the Comprehensive Plan from time to time;
 2. The City's Capital Improvements Program ("CIP");
 3. Other policies or procedures to facilitate implementation of planning elements;

4. ~~[Proposed covenants, conditions, and restrictions as set out in Section 15-504, Covenants, Conditions, and Restrictions ("CRRs");]~~
5. Proposed amendment of the text of this ~~{UDO}~~UDC;
6. Final plats;
7. Proposed amendment of the Official Zoning Map, including conditional use permits;
8. Variances that are not under the authority of the Board of Adjustment;
9. City designation of historic properties and districts, upon recommendation of the Planning Commission; and
10. Any other action not delegated to any other board or commission as the City Council may deem desirable and necessary to implement the provisions of this ~~{UDO}~~UDC and the goals and objectives of the City, provided such action is not contrary to the requirements of this ~~{UDO}~~UDC or State law.

Commented [AT1]: Redundant.

C. **Appeals.** The City Council shall hear and decide appeals from decisions of the Planning Commission after a public hearing, as set out in **Section 15-717, Variances, Appeals, and Interpretations.**

~~{15-7}~~11-803.02. Planning Commission

- A. **Generally.** The Planning Commission ("**Commission**") is authorized by Nebraska **Revised Statutes** ~~{and Codes}~~ (**Neb. Rev. Stat.**) **§19-925**, Municipal Plan; Planning Commission; Authorized, and ~~{the}~~ Fremont Municipal Code (**FMC**), Chapter 2, Article I, Meetings and Committees §2-112, Boards and Commissions. This Section is adopted pursuant to these statutory and municipal authorizations. Consequently, amendment of the State statute after the effective date may modify, delete, or supplement the provisions of this Subsection.
- B. **Function.** The ~~{Planning}~~ Commission shall undertake a continuing planning program for the physical, social, and economic growth, development, and redevelopment of the area within its jurisdiction. The plans and programs must be designed to promote public health, safety, morals, convenience, prosperity, or the general welfare, as well as the efficiency and economic of its area of jurisdiction.
- C. **Powers and Duties.** The ~~{Planning}~~ Commission is delegated the following powers:
 1. *Review and Decision.* The ~~{Planning}~~ Commission shall review and decide on the following:
 - a. Preliminary plats; **and**
 - b. ~~{Site plans and building elevations for all new development, redevelopment, substantial improvement, and expansion of multifamily residential and nonresidential and mixed use buildings pertaining to their conformance with the standards and requirements of the following:~~
 1. ~~15-410, Accessory and Supplemental Standards;~~
 2. ~~15-420, Design Standards;~~
 3. ~~15-610, Landscaping and Buffering;~~
 4. ~~15-620, Signs; and~~
 5. ~~15-630, Exterior Lighting.~~ **Any other request either expressed or implied by this UDC.**
 2. *Studies and Policy Recommendations to the City Council.* The ~~{Planning}~~ Commission is empowered to, on its own initiative or as requested by the City Council:
 - a. Review and recommend final plats to the City Council;

Commented [AT2]: I would strongly discourage this process as it will only increase permit aging.

- b. After a public hearing, review and recommend the appropriateness and acceptance or denial of petitions for annexation, zoning change, conditional use permits, and designation of historic properties or districts;
 - c. Submit reports, plans, and recommendations for the orderly growth, development and welfare of the City; and
 - d. Periodically review the Comprehensive Plan, this ~~[UDO]~~UDC and the Official Zoning Map and make recommendations regarding amendments; and
 - e. ~~Periodically review the Comprehensive Plan and other plans of the City and make recommendations regarding amendments.~~
- ~~3. *Review and Decision after a Public Hearing.* The Planning Commission shall review and decide after a public hearing the issuance of a temporary use permit for *public and commercial events* with an expected peak attendance of more than 1,500 persons, as set out in Subsection 15-305.03., *Public Interest or Special Events.*~~
4. Review and Recommendation after a Public Hearing. The Planning Commission shall review and make a recommendation to the City Council for the following types of applications:
- a. ~~Amendments to the text of this UDO;~~
 - b. ~~Proposed amendment of the Official Zoning Map, including permitted and conditional use permits;~~
 - c. ~~Designation by the City of individual historic properties and historic districts; and~~
 - d. ~~Construction or demolition pertaining to or affecting duly designated historic properties and the Historic Neighborhood (HN) Conservation Overlay District].~~
5. *Other Powers of the Planning Commission.*
- a. Ensure that new development is consistent with the policies of the Comprehensive Plan;
 - b. ~~[Regarding the designation of historic properties and districts:~~
 - 1. ~~Maintain a local inventory of buildings, structures, objects, and sites more than 50 years old, which records shall be available to the public;~~
 - 2. ~~Conduct and/or maintain an ongoing survey to identify historically and architecturally significant properties, structures, and areas that exemplify the cultural, social, economic, political, or architectural history of the City;~~
 - 3. ~~Keep a register of all properties and structures that have been designated as landmarks or historic districts, including all information required for each such designation;~~
 - 4. ~~Recommend criteria for the designation of historic properties and the delineation of historic districts, which may be adopted by the City Council;~~
 - 5. ~~Advise and assist owners of all properties or structures within historic districts on the physical and financial aspects of preservation, renovation, rehabilitation, and reuse and, where appropriate, to advise such owners of the procedures of the inclusion of structures on the National Register of Historic Places;~~
 - 6. ~~Work in conjunction with the Director, or an appointee, to inform and educate the citizens of Fremont concerning the Historic Neighborhood (HN) Conservation Overlay District's historic and architectural heritage by publishing appropriate maps, newsletters, brochures, and pamphlets; by holding programs and seminars; and through media exposure;~~

Commented [AT3]: Redundant.

Commented [AT4]: Reorganized to coincide with the general planning and development timeline.

- ~~7. Consider, analyze, and make a determination with respect to all applications for Certificates of Appropriateness by applying the standards set out in Subsection 15-426.05., Historic Neighborhood Overlay (HN) District;~~
- ~~8. Make recommendations for amendments to the general standards of Subsection 15-426.05., Historic Neighborhood Overlay (HN) District with final approval of the general standards to be accomplished by resolution of the City Council. Once approved, to implement any amendments to the general standards;~~
- ~~9. Make recommendations to the City Council concerning the utilization of Federal, State, local, or private funds or tax incentives to promote the preservation or rehabilitation of heritage properties and historic districts within the City; and~~
- ~~10. Hear and act upon appeals regarding the acceptance and granting of a Certificate of Compliance by the Director, or an appointee.]~~

c. Regarding subdivision and land development:

1. Establish procedures and standards governing the preparation, filing, and approval of land subdivision plats and data to be submitted for approval;
- ~~2. [Coordinate the alignment of streets within subdivisions with other existing or planned streets, or with other features of the City.]~~
3. Establish minimum standards governing stormwater management; flood damage prevention; streets, sidewalks, and utilities; parking, loading, and access; lighting; and other required improvements.
4. Ensure conformance of subdivision and site development plans with the capital improvement program of the City;
5. Ensure that subdivisions and subdivision improvements are designed to:
 - a. Reduce potential impacts on street congestion;
 - b. Promote the orderly layout and use of land;
 - c. Secure safety from fire and other dangers;
 - d. Mitigate the impacts and threats of life and property due to flooding resulting from significant storm events;
 - e. Facilitate adequate provision of transportation, potable water, wastewater, schools, parks, playgrounds, and other public requirements;
 - f. Protect residential neighborhoods from the hazard of high-speed through traffic; and
 - g. Protect groundwater and surface water resources from contamination.
- ~~6. [Assure the prospective purchaser of a subdivision lot that necessary streets, sewers, drainage, sidewalks, and parks are available.~~
- ~~7. Protect the integrity of the purchaser's title by required certification that monuments and markers are installed according to the locations designated on the approved plat.~~
- ~~8. Assure that facilities to be accepted and maintained by the City are properly located and constructed.~~
- ~~9. Review covenants, conditions, and restrictions that implement the requirements of this UDO or conditions of approval (see Section 15-504, Covenants, Conditions, and Restrictions ("CCRs")).~~
- ~~10. Approve street names concurrently with the approval of the plat.~~

Commented [AT5]: Redundant.

Commented [AT6]: How?

Commented [AT7]: This is part of the surveyor/engineers attestation on the plat document.

Commented [AT8]: How?

Commented [AT9]: Redundant.

Commented [AT10]: The only plat that the Commission *approves* is a preliminary plat – street names are not required on preliminary plats only “general street and lot layout.”

~~11. Review and find whether or not lots on major street intersections at all acute angle intersection are likely to be dangerous to the traffic movement (see Subsection 15-506.05., *Lots*).~~

Commented [AT11]: Based on what?

~~12. Review, consider, and approve or deny:~~

~~a. A preliminary plat that proposes building pads that are varied as to the setbacks, including required modifications or relocation of proposed building pads if there is a finding that the proposed building pad layout would negatively affect the character of the street or neighborhood, as set out in Subsection 15-506.06., *Variable Building Pads*.~~

Commented [AT12]: Redundant.

Commented [AT13]: Preliminary plats are for general street and lot layout, not building pads.

~~b. The requirement for underground utilities, as set out in Subsection 15-514.01., *Location of Utilities*.~~

~~13. Review, consider, and recommend to the City Council, in coordination with the Director, the beautification of medians by a subdivider, as set out in Subsection 15-513.09., *Medians and Entrance Ways*.~~

Commented [AT14]: Redundant.

~~14. Accept a performance bond as a guarantee in lieu of completed improvements, as set out in Subsection 15-506.11., *Required Improvements*.~~

Commented [AT15]: Redundant.

~~15. Review, consider, and impose conditions, as warranted, to assure the orderly development of land proposed to be developed in phases, as set out in Subsection 15-506.12., *Development Phasing*.~~

Commented [AT16]: Redundant.

d. **Regarding the designation of historic properties and districts:**

- Maintain a local inventory of buildings, structures, objects, and sites more than fifty (50) years old, which records shall be available to the public;
- Conduct and/or maintain an ongoing survey to identify historically and architecturally significant properties, structures, and areas that exemplify the cultural, social, economic, political, or architectural history of the City;
- Keep a register of all properties and structures that have been designated as landmarks or historic districts, including all information required for each such designation;
- Recommend criteria for the designation of historic properties and the delineation of historic districts, which may be adopted by the City Council;
- Advise and assist owners of all properties or structures within historic districts on the physical and financial aspects of preservation, renovation, rehabilitation, and reuse and, where appropriate, to advise such owners of the procedures of the inclusion of structures on the National Register of Historic Places;
- Work in conjunction with the Zoning Administrator, or an appointee, to inform and educate the citizens of Fremont concerning the Historic Neighborhood (HN) Conservation Overlay District's historic and architectural heritage by publishing appropriate maps, newsletters, brochures, and pamphlets; by holding programs and seminars; and through media exposure;
- Consider, analyze, and make a determination with respect to all applications for Certificates of Appropriateness by applying the standards set out in Subsection 15-426.05., *Historic Neighborhood Overlay (HN) District*;
- Make recommendations for amendments to the general standards of Subsection 15-426.05., *Historic Neighborhood Overlay (HN) District* with final approval of the general

standards to be accomplished by resolution of the City Council. Once approved, to implement any amendments to the general standards;

9. Make recommendations to the City Council concerning the utilization of Federal, State, local, or private funds or tax incentives to promote the preservation or rehabilitation of heritage properties and historic districts within the City; and
10. Hear and act upon appeals regarding the acceptance and granting of a Certificate of Compliance by the Zoning Administrator, or an appointee.

~~e. Upon referral of the Director, determine whether or not a proposed use is either a subcategory of or functionally similar to a permitted, limited, or conditional use according to the criteria set out in Section 15-303, Unlisted and Functionally Similar Uses.~~

Commented [AT17]: Redundant.

~~f. Review, consider, and approve or deny, including the imposition of reasonable standards, a sign design program according to the criteria and conditions of approval set out in Subsection 15-627.01., Program Alternative.~~

Commented [AT18]: Redundant.

~~g. Require that space be reserved or land banked for additional parking upon a finding or determination that there is a reasonable likelihood that a land use could change in a manner that increases the parking demand, as set out in Subsection 15-603.05., Parking Credits and Reductions.~~

Commented [AT19]: Redundant.

~~h. Review, consider, and approve or deny a greater reduction than that allowed by Subsection 15-603.06., Shared Parking.~~

Commented [AT20]: Redundant.

D. **Referral of Matters to the Commission; Reports.** The City Council may refer any matters or class of matters to the ~~[Planning]~~ Commission, with the provision that final action on it may not be taken until the ~~[Planning]~~ Commission has submitted a report on it or has had a reasonable period of time, as determined by the City Council, to submit a report.

E. **Authority.**

1. In general, the ~~[Planning]~~ Commission has the powers as may be necessary to enable it to perform its functions and promote the planning of its jurisdiction.
2. The ~~[Planning]~~ Commission and its members, in the performance of its functions, may enter upon any land with consent of the property owner ~~[or after 10 days, written notification to the owner(s) of record, make examinations and surveys, and place and maintain necessary monuments and marks on them, provided, however, that the Planning Commission shall be liable for any injury or damage to the property].~~

Commented [AT21]: Not without a search warrant.

~~F. **Membership, Qualifications, and Terms of Office.** The creation, appointment, removal, composition, terms of office, and rules, records, and procedures of the Planning Commission are set out in the Fremont Code of Ordinances, Chapter 2, Article II, §2-202, Planning Commission.~~

Commented [AT22]: No they are not.

~~[15-7]~~ **11-803.03. Board of Adjustment**

A. **Generally.** There shall be a Board of Adjustment (“~~[BOA]~~Board”), the membership, terms of office, and rights and duties of which shall be ~~[provide in the]~~ in accordance with ~~[Fremont Municipal Code, Chapter 2, Article II, §2-203, Board of Adjustment]~~ Nebraska Revised Statutes (Neb. Rev. Stat.) Sections 19-907 to 19-912, as amended from time to time. The ~~[BOA]~~Board shall be established to provide relief in situations of hardship or to hear appeals as provided Subsection 15-717.02., Variances.

Commented [AT23]: Does not pertain to Board of Adjustment.

- B. **Rules.** The ~~{BOA}Board~~ shall adopt rules in accordance with the provisions of this Subsection and [Neb. Rev. Stat. §19-901 to 19-914](#) ~~{R.S. Nebraska}~~.
- C. **Membership.** The ~~{BOA}Board~~ shall consist of five (5) regular members, plus one (1) additional alternate member who shall attend and vote only when ~~{one}~~a member is unable to attend for any reason. At least one (1) member of the ~~{BOA}Board~~ ~~{shall}~~may reside outside of the corporate limits but within the extraterritorial jurisdiction.
- D. **Terms.** Each member shall be appointed by the Mayor with the approval of the City Council for a three-year term and is removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One (1) member of the ~~{BOA}Board~~ shall be appointed from the Planning Commission, and the loss of membership on the Planning Commission by such member shall also result in the immediate loss of membership on the ~~{BOA}Board~~ and the appointment of another Planning Commissioner to the ~~{BOA}Board~~.
- E. **Meetings.** Meetings for ~~{BOA}Board~~ shall be held at the call of the Chairperson and at such times the ~~{BOA}Board~~ may determine. In the Chairpersons absence, the acting ~~{Chairman}~~Chairperson may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public and preceded by due advertisement.
- F. **Powers and Duties.** The ~~{BOA}Board~~ shall hear and decide upon:
1. *Appeals.* To hear and decide appeals where it is alleged there is error in any order, requirement, decisions, or determination made by the Director, or appointee, or another administrative official or agency, in the enforcement of this ~~{UDO}UDC~~ or any regulations relating to the location or soundness of structures, except that the authority to hear and decide appeals shall not apply to decisions made under Subsection (3) of Section 19-929, Planning Commission; Municipal Governing Body; Powers and Duties; Appeal, of State Statutes;
 2. *Interpretations.* Interpretation of ~~{the provisions of this UDO and}~~ any map; and
 3. *Variances.* To authorize, upon appeal, variances so as to relieve difficulties or hardship from the strict application of these regulations where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the ~~{UDO}UDC~~; or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property.
 - a. Requirements for Granting a Variance. No variance shall be authorized by the Board unless it finds that:
 1. Strict application of the zoning regulations will produce undue hardship;
 2. Such hardship is not shared generally by other properties in the same zoning district and within the same vicinity;
 3. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance;
 4. The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice;
 5. The condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the

formulation of a general regulation to be adopted as an amendment to the zoning regulations; and

6. The granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of this ~~{UDO}UDC~~ or other ordinances/resolutions.
- b. Findings by Board. The ~~{BOA}Board~~ shall make findings that the requirements of **Subsection F.3.a.**, above, have been met by the applicant for a variance.
- c. Conditions for Granting a Variance:
 1. In granting any variance, the ~~{BOA}Board~~ may prescribe appropriate conditions and safeguards in conformity with these regulations. Violation of such conditions and safeguards, when made in part of the terms under which the variance is granted, shall be deemed a violation of these regulations and punishable under **Subsection 15-733.02., Violations**;
 2. Under no circumstances shall the ~~{BOA}Board~~ grant a variance to allow a use not permissible under the terms of this ~~{UDO}UDC~~, or any use expressly or by implication prohibited by the terms of this ~~{UDO}UDC~~;
 3. No nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

~~d. **Reversing Decisions of the Director.** In exercising the above mentioned powers, the BOA may, so long as such action is in conformity with the terms of this Subsection, reverse or affirm, wholly or partly, or may modify the order, requirement, decisions, or determination as ought to be made, and to that end shall have the powers of the Director from whom the appeal is taken.~~

Commented [AT24]: Not applicable to variances.

- G. **Vote to Transact Business.** A majority of the ~~{BOA}Board~~ shall constitute a quorum for the transaction of business. The concurring vote of four (4) members of the ~~{BOA}Board~~ shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ~~{UDO}UDC~~, or to effect any variation of this ~~{UDO}UDC~~.
- H. **Referral of Matters to Planning Commission; Reports.** If the ~~{BOA}Board~~ believes that the standards for granting a variance or an appeal have not been met, but that the applicant has made a reasonable argument instead that there may be grounds for review of a provision of this ~~{UDO}UDC~~, then the ~~{BOA}Board~~ shall forward a report on the matter to the Planning Commission for discussion. The Planning Commission retains full discretion regarding enforcement of the specified ~~{UDO}UDC~~ provision, and shall act upon the ~~{BOA}Board~~'s report if it concurs that a text amendment may be reasonable. Upon such a general finding, the Planning Commission shall place the item on a subsequent agenda for further discussion or consideration.
- I. **Duties of Secretary.** It shall be the duty of the secretary to keep a true and correct record of all proceedings at such meetings, in a book or books to be specially kept for that purpose ~~[Certified copies of such proceedings shall be furnished to the chairperson of the Planning Commission].~~ The ~~{BOA shall appoint a secretary who may be an officer or City employee}~~ **Zoning Administrator shall serve as secretary of the Board.**
- J. **Minutes.** The ~~{BOA}Board~~ shall keep a record of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its

examinations upon other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

- K. **Appeals.** Any person(s), or any board, taxpayer, officer, department, board or bureau of the City aggrieved by any decision of the ~~{BOA}~~Board may seek review of such decision by the District Court for the County in the manner provided by the laws of the State and particularly by 19-912 R.R.S. 1943 (Reissue 1991), and amendments thereto.

~~{15-7}~~**11-803.04. {Director}Zoning Administrator (acting as Floodplain Administrator)**

- A. **Generally.** The ~~{Director of Planning (“Director”)}~~Zoning Administrator is a member of the City staff who is ultimately responsible for processing an application to decision (in case of administrative approval) or recommendation to another review body (in case of public meeting and hearing approvals). The ~~{Director}Zoning Administrator~~ ~~{shall}may~~ designate staff members to manage applications through the review process and to be points of contact for applicants, and to perform such other functions and duties as may be required of the ~~{Director}Zoning Administrator~~ by this ~~{UDO}UDC~~. The ~~{Director}Zoning Administrator~~ may also designate review responsibilities to other members of the City staff with relevant technical training or expertise, or, as appropriate, to consultants that are authorized by the City Council.
- B. **Duties and Responsibilities.** For the purpose of reference, the ~~{Director}Zoning Administrator~~ has the following duties and responsibilities with respect to the administration of this ~~{UDO}UDC~~ - such duties may be allocated and reallocated by the City Administrator in the exercise of the responsibilities of that office without amendment to this ~~{UDO}UDC~~:
1. *General Administration.* The ~~{Director}Zoning Administrator~~ shall:
 - a. Interpret the general intent and/or specific meaning of any portion of the Comprehensive Plan, this ~~{UDO-text}UDC, {position}location~~ of district boundaries, district designations, or other matters relating to the ~~{Official Zoning Map}same~~;
 - b. Maintain the Official Zoning Map and record all amendments to and information thereon;
 - c. Provide public information relating to zoning matters including scheduled meetings of the Planning Commission and Board of Adjustment;
 - d. Receive, process, and ~~{record}archive~~ all applications ~~{for Certificates of Zoning Compliance, zoning amendments, planned and traditional neighborhood development projects, and variance requests with accompanying plans and documents, all of which shall be a public record}associated with this UDC;~~
 - e. Undertake reviews, make recommendations, and grant approvals as set forth in this UDC, and particularly as set out in ~~Section~~ 15-715, Administrative Permits and Procedures;
 - f. Register and maintain records and maps of nonconforming uses~~{, buildings}, structures{, lighting, landscaping, bufferyards, signs, parking, site access, site improvements},~~ and sites including nonconforming lots or tracts;
 - g. ~~{Appear before and provide assistance}Serve as general liaison and secretary~~ to the Planning Commission and Board of Adjustment;
 - h. Revoke permits or certificates in violation of the provisions of this ~~{UDO}UDC~~;
 - i. Identify code violations and shall enforce the provisions of this UDC and approvals granted hereunder pursuant to ~~Section~~ 15-733, Enforcement and Remedies, including but not limited to issuance of all notices or orders to ensure compliance with this UDC; and

Commented [AT25]: We will name the Director of Planning, or his or her designee, in the definition of Zoning Administrator. Otherwise, common practice suggests that a Zoning Administrator – and not a “Director” – administers zoning regulations (or in this case unified development codes).

- j. Be responsible for all other responsibilities as the City Council or City Administrator may assign from time to time.
- 2. *Floodplain Administration.* In designated flood hazard areas delineated on the Federal Emergency Management Agency (“FEMA”) maps, the ~~Director~~Zoning Administrator, or an appointee acting as the floodplain administrator, shall:
 - a. Advise applicants that additional Federal and State permits may be required. Assure that all necessary permits have been received from those government agencies from which approval is required by Federal or State law, including **Section** 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C.1334.
 - b. Notify adjacent property owners and the Nebraska Department of Environmental Quality, and other State or Federal agencies prior to any alteration or relocation of a watercourse and subsequently, submit evidence of such notification to FEMA.
 - c. Assure in writing by the owner within the altered or relocated portion of a watercourse that appropriate maintenance is provided so that the flood carrying capacity is not diminished.
 - d. Make interpretations, where needed, as to the exact location of the boundaries of special flood hazard areas (e.g., where there appears to be a conflict between a mapped boundary and the actual field conditions).
 - e. In coordination with the Building Official:
 - 1. Verify and record the actual elevation (relative to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
 - 2. Verify and record the actual elevation (relative to mean sea level) to which the new or substantially improved structures have been flood-proofed.
 - f. Obtain certification from a registered professional engineer or architect when flood proofing is utilized for a particular structure.
 - g. Obtain, review, and utilize any base flood elevation data available from Federal, State, or other sources when such data are not available from FEMA.
 - h. Maintain all records pertaining to the provisions of this ~~UDO~~UDC, which records shall be open for public inspection during workday hours.
 - i. Review subdivision proposals and other proposed new development to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposal shall be reviewed to assure that:
 - 1. All such proposals are consistent with the need to minimize flood damage within the flood-prone area;
 - 2. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
 - 3. Adequate drainage is provided to reduce exposure to flood hazards.
 - j. Enforce the floodplain management and flood hazard reduction standards of this ~~UDO~~UDC; and
 - k. Coordinate with the Mayor, City Administrator, Director of Public Works, and Building Official to recommend approval, approval with conditions, or denial of waivers from **Section** 15-524, *Floodplain Management and Flood Damage Prevention*.
- 3. *Processing Permits and Applications.* The ~~Director~~Zoning Administrator, or an appointee, shall:

- a. Receive and log applications for development approval and variances;
 - b. Review application materials and verify that applications are complete;
 - c. Communicate with applicants to inform them that their applications are complete or not complete; and if the applications are not complete, what items are required to complete the application;
 - d. Manage the processing of applications according to **Section 15-714, Standardized Development Approval Procedures**;
 - e. Process and review all applications (or cause the applications to be reviewed) and either decide applications or make a recommendation regarding how the application should be decided (depending upon the type of application);
 - f. Set applications on agendas of the Planning Commission, Board of Adjustment, or the City Council, as appropriate;
 - g. Provide public notice as may be required by the provisions of **Subsection 15-714.09., Public Notice**; and
 - h. Promptly issue written permits, resolutions, or order that reflect the substance of approval granted by the City pursuant to this ~~UDO~~UDC.
4. **Recommendations.** The ~~Director~~**Zoning Administrator** shall provide professional recommendations regarding:
- a. Whether applications that are placed on an agenda of the Planning Commission, Board of Adjustment, and City Council comply with the requirements of the ~~UDO~~UDC, and, if not, whether conditions of approval could be imposed to bring the application into compliance (including specification of such conditions).
 - b. Whether amendments to **the Comprehensive Plan or** this ~~UDO or the Comprehensive Plan~~UDC are advisable to, among other things:
 - 1. Bring the Comprehensive Plan or ~~UDO~~**this UDC** into conformity with State or Federal requirements as they change over time;
 - 2. Respond to changing demographics, physical conditions, technological advancements, or economic conditions; or
 - 3. Implement amendments to the Comprehensive Plan or other adopted plans of the City; or
 - 4. Resolve errors, internal inconsistencies, or other administrative matters.
 - c. Whether amendments to the Comprehensive Plan or the ~~UDO~~UDC that are proposed by persons or bodies outside of the City are appropriate to serve their stated purposes.
5. ~~(Approvals. The Director shall decide the following types of applications, as set out in Section 15-715, Administrative Permits and Procedures:~~
- ~~a. Zoning clearance permits for permitted uses;~~
 - ~~b. Zoning clearance permits for limited uses as set out in Section 15-304, Limited and Conditional Uses;~~
 - ~~c. Temporary use permits for public and commercial events with an expected attendance of less than 1,500 persons, as set out in Subsection 15-305.03., Public Interest or Special Events;~~
 - ~~d. Right-of-way encroachments;~~
 - ~~e. Minor modifications of plats;~~

Commented [AT26]: Redundant.

- ~~f. Administrative plats;~~
- ~~g. Neighborhood conservation district building and improvement plans;~~
- ~~h. Floodplain development permits (including waivers along with the Mayor, City Administrator, Director of Public Works, and Building Official);~~
- ~~i. Sign permits;~~
- ~~j. Certificate of Historical Appropriateness after Planning Commission review and recommendation and City Council approval;~~
- ~~k. Administrative waivers (including minor deviations from landscaping requirements and modifications of the approved plant list); and~~
- ~~l. Alternative compliance with the off-street parking schedule including through special studies and credits and reductions for alternative parking.~~
- ~~6. **Assignments.** The Director is responsible for all other responsibilities as the City Council or City Administrator may assign from time to time.~~
- ~~7. **Recordkeeping.** The Director shall maintain all records of development applications, including materials and outcomes.~~
- ~~8. **Inspection.** The Director, or an appointee, shall, on an ongoing basis, identify code violations and shall enforce the provisions of this UDO and approvals granted hereunder pursuant to Section 15-733, *Enforcement and Remedies.*~~

Commented [AT27]: Relocated above.

Commented [AT28]: Redundant.

Commented [AT29]: Relocated above.

~~15-7~~ **11-803.05. Director of Public Works**

- A. **Generally.** With respect to the administration of this ~~{UDO}~~UDC, the Director of Public Works, or a designee, is generally responsible for verifying that all standards and quality assurance requirements are met for public improvements ~~{, parking areas,}~~ and other infrastructure. ~~{The Director of Public Works shall be appointed by the City Administrator.}~~
- B. **Responsibilities.** For the purpose of reference, the Director of Public Works has the following principal duties and responsibilities with respect to the administration of this ~~{UDO}~~UDC (this list is not intended to be exclusive or limiting) - such duties may be allocated and reallocated by the City Administrator in the exercise of the responsibilities of that office without amendment to this ~~{UDO}~~UDC:
 - 1. *Drainage Plans.*
 - a. Prior to authorization of any building permit, the Director of Public Works shall review and approve all such stream flow, runoff calculations, and drainage plans as required of a subdivider under the terms of this ~~{UDO}~~UDC.
 - b. In those instances when underground storm drainage facilities are reasonably accessible to a proposed development, the Director of Public Works shall determine any special design standards required to connect an on-site drainage system to the City's system.
 - c. Determine the warrant and requirement for the submittal contents and the content of what is needed to conduct an appropriate drainage analysis of a site plan and grading plan submitted to the City as part of the requirements of the site plan needed for a certificate of zoning compliance and building permit.
 - ~~2. **Review and provide recommendations pertaining to the maneuvering space for refuse containers, as set out in Subsection 15-413.03, *Refuse Containers.***~~

Commented [AT30]: Redundant.

Commented [AT31]: While certainly the Director of Public Works/City Engineer may be consulted in these respects, we will attempt to differentiate between areas of responsibility associated with those public off-site improvements commonly associated with the department of Public Works and those private on-site improvements commonly associated with the department of Planning & Development.

3. Review and approval of truck routing plans to prevent trucks from traveling on public right-of-way within or adjacent to any residential district or use or adjacent to any park or recreational area or facility, as set out in **Subsection 15-302.04., Agriculture, Industrial, Utility, and Transportation Uses.**
 4. ~~[Review all applications for concrete and asphalt batching operations to make a recommendation to the Director regarding compliance with the standards of Subsection 15-305.05., Construction, Storage, and Refuse Collection Uses.]~~
 5. Promulgate and maintain a manual of engineering standards, however titled, for construction of infrastructure, as set out in **Subsection 15-506.02., Engineering Standards Manual.**
 6. Review, consider, and approve or deny all required improvements associated with the subdivision and development of land, as set out in **Subsection 15-506.11., Required Improvements.**
 7. Ensure that securities for required improvements associated with the subdivision and development of land do not lapse or expire and providing advanced notice to the subdivider of such expiration, as applicable, as set out in **Subsection 15-506.11., Required Improvements.**
 8. Review and make a determination as to whether a subdivider has complied with all applicable requirements of development before release of any obligation of the subdivider, as set out in **Subsection 15-506.11., Required Improvements.**
 9. Review, consider, and approve or disapprove, together with the Mayor, or a designee, City Administrator, ~~Director~~**Zoning Administrator**, and Building Official, requests for waivers from the requirements of **Section 15-524, Floodplain Management and Flood Damage Prevention.**
 10. Review and make a determination as to whether additional right-of-way is required for arterial or collector streets due to unique site design requirements (e.g., vertical curve, sight distance triangles, turn lanes, median, etc.) as set out in **Subsection 15-513.02., Street Standards** and **Subsection 15-513.07., Geometrics (Intersections, Jogs, Offsets, and Reverse Curves).**
 11. Review and determine the adequate electrical service for street lighting, as set out in **Subsection 15-513.13., Street Lighting.**
 12. Review and provide recommendations as to the required pipe size for sanitary sewer systems, as set out in **Subsection 15-514.03., Wastewater System.**
 13. Review, consider, and determine whether greater corner clearance lengths are warranted or required, as set out in **Section 15-605, Access Management and Circulation.**
- C. **Inspections.** The Director of Public Works shall cause to make sufficient inspection to ensure compliance with the specifications set out in this ~~{UDO}~~**UDC**. A registered engineer, employed by the subdivider and approved by the Director of Public Works, may certify in writing to the Director of Public Works that such engineer has inspected each phase of the construction of the storm drainage improvements required in this ~~{UDO}~~**UDC** and said inspection certification shall meet the terms of this ~~{UDO}~~**UDC**. If the improvement is intended to be dedicated to the City, the Director of Public Works shall make a final inspection of the improvements before accepting the improvements for dedication to the City for permanent maintenance.

~~**[15-703.06. Building Official]**~~

~~The Building Official shall be appointed by the City Administrator who shall have the following powers and duties:~~

- A. ~~**Generally.** The Building Official, or designee, shall review construction plans, issue building permits, and verify code compliance for all construction in the City to the extent permitted by State law.~~

Commented [AT32]: Outside the scope of the UDC.

~~B. **Responsibilities.** For the purposes of reference, the Building Official has the following duties and responsibilities with respect to the administration of this UDO (this list is not intended to be exclusive or limiting) such duties may be allocated and reallocated by the City Administrator in the exercise of the responsibilities of that office without amendment to this UDO:~~

- ~~1. **Permit Review.** The Building Official reviews residential, commercial, industrial, mixed use, and other plan types, including plans for signs, to verify that the construction design meets the minimum code requirements and applicable City ordinances.~~
- ~~2. **Inspection.** The Building Official conducts and approves all building permit inspections to ensure that construction meets all applicable building codes and other requirements (as applicable, including inspecting setbacks, foundation elevation, and fence and wall requirements set out in this UDO).~~
- ~~3. **Recordkeeping.** The Building Official maintains all records as it relates to the building permit process and inspections, including materials and outcomes.~~
- ~~4. **Interpretation.** The Building Official interprets the building codes and other City ordinances as they relate to plans and permits.~~
- ~~5. **Arbitration.** The Building Official arbitrates discrepancies regarding plans, permits, and inspections.~~
- ~~6. **Approvals.** The Building Official shall decide the following applications;~~
 - ~~a. Building permits; and~~
 - ~~b. Certificates of occupancy.~~

~~[Sec. 15-7]§11-804 Reserved to [Sec. 15-7]§11-809~~

~~[15-7]11-810 PERMITS AND PROCEDURES~~

~~[Sec. 15-7]§11-811 Purpose~~

The purpose of this Section is to set out all the City's development approval procedures in one place, and to standardize them to the maximum practicable degree.

~~[Sec. 15-7]§11-812 Application~~

- A. **Generally.** All procedures for obtaining approval pursuant to this ~~{UDO}~~UDC, and for appealing decisions of the City Staff and Planning Commission are set out in this Section. This Section shall be interpreted to limit or expand the operation of specific provisions of this ~~{UDO}~~UDC.
- B. **Submittal Standards.** Application submittal, including the forms and contents required for application submittal, are available at the Planning Department.
- C. **Standardized Approval Procedures.** Set out in ~~Section 15-714~~, *Standardized Development Approval Procedures* is the standard procedural framework for considering and deciding applications for development approval. It also sets out criteria for development approval and issuance of permits.
- D. **Administrative Procedures.** Set out in ~~Section 15-715~~, *Administrative Permits and Procedures* is the procedural framework for the review of applications for administrative approvals.

- E. **Public Meeting and Hearing Permits.** Set out in **Section 15-716**, *Public Meeting and Hearing Permits and Procedures*, is the procedural framework for considering and deciding applications for development approval. It sets out requirements for public hearings.
- F. **Variations, Appeals, and Interpretations.** Set out in **Section 15-717**, *Variations, Appeals, and Interpretations* is the requirements for seeking variations from the terms of this ~~UDO~~UDC, appealing administrative decisions, protesting applications for zone changes and future land use map amendments, and seeking an official interpretation of this ~~UDO~~UDC.
- G. **Text Amendments.** Set out in **Subsection 15-716.14.**, *Text Amendment* is the procedures for amending the text of this ~~UDO~~UDC.
- H. **Designation of Historic Places and Districts.** Set out in **Subsection 15-716.15.**, *City Designation of Historic Properties or Districts* is the process for designating a property or district for the purpose of preservation.

~~Sec. 15-7~~ **§11-813 Permits and Approvals**

~~15-7~~ **11-813.01. Permits Required**

Determinations, approvals, and permits are required for development in the City, as set out in this Section, by State law, and Federal law.

~~15-7~~ **11-813.02. Administrative Permits**

- A. **Generally.** Administrative permits are those that are issued by the ~~City Staff~~ **Zoning Administrator**, without the requirement for a public meeting or hearing.
- B. **Administrative Permits Established.** The administrative permits required by this ~~UDO~~UDC are set out in **Table 15-713.02.**, *Administrative Permits*. Standards are provided for cross-reference purposes only, and do not exempt the application from all applicable standards of this ~~UDO~~UDC. Other development permits may be required by State or Federal law, applicable building codes, or the Municipal Code.

Table ~~15-7~~ **11-813.02.**

Administrative Permits

Permit	Required For	Timing	Exceptions	Issued By	Standards ¹
Use Permits					
Zoning Clearance Permit Certificate of Zoning Compliance , Permitted and Limited Uses	New land uses and changes in land use	Prior to establishment of a permitted or limited use	None	Director Zoning Administrator	15-300, <i>Land Uses</i> lists the permitted and limited uses; the limited use standards are provided in Section 15-304, <i>Limited and Conditional Uses</i> .

Commented [AT33]: Ref. 15-715.01.

Table ~~(15-7)~~ 11-813.02.

Administrative Permits

Permit	Required For	Timing	Exceptions	Issued By	Standards ¹
Temporary Use Permit, Public and Commercial Events	Public and commercial events with an expected peak attendance of less than 1,500 persons	Prior to installation of temporary buildings or structures or establishment of a temporary use or event, whichever comes first.	{Public and commercial events with an expected peak attendance of more than 1,500 persons require Planning Commission approval.} None	{Director} Zoning Administrator	See Section 15-305, Temporary Uses.
Temporary Use Permit, Neighborhood Events	Neighborhood events including special events	At least one week prior to the event.	Garage sales do not require a permit.	{Director} Zoning Administrator	See Subsection 15-305.04, Neighborhood Events.
Temporary Use Permit, Construction, Storage, and Refuse Collection Uses	Uses set out in Table 15-305.05., Temporary Construction, Storage, and Refuse Collection Uses.	Prior to installation of temporary buildings or structures or establishment of a temporary use, whichever comes first.	None.	Zoning Administrator	See Section 15-305.05., Construction, Storage, and Refuse Collection Uses.
Right-of-Way Encroachment	Encroachments into the public right-of-way in the DC district.	Prior to issuance of a zoning clearance or building permit.	Permitted encroachments set out in Subsection 15-404.01., Development Standards, Subsection E, DC District Setbacks.	{Director} Zoning Administrator, in coordination with the Director of Public Works	See Subsection 15-404.01., Development Standards, Subsection E, DC District Setbacks.
Plats and Plans					
Minor Changes to {Planned Development} Preliminary or Final {Plans} Plats	Minor changes to an approved {planned development} preliminary or final {plan} plat.	Prior to the construction or development that is within the area proposed to be modified.	Major changes to a {planned development} preliminary or final {plan} plat requires Planning Commission hearing and approval and ratification by City Council.	{Director} Zoning Administrator	See Section 15-715, Administrative Permits and Procedures.
Administrative Plats	Minor modifications of existing {parcels} lots or tracts of land.	Prior to issuance of building permits or permits that allow for site clearing, grading, or construction.	Does not pertain to subdivisions involving new streets or public improvements, or developments resulting in more than four (4) lots {, or property not zoned for residential use} .	{Director} Zoning Administrator	See Section 15-715, Administrative Permits and Procedures.
{Neighborhood Conservation Building or Improvement Plans}	Development, redevelopment, and building modifications or expansions in the NC district.	Prior to issuance of building permits or permits that allow for site clearing, grading, or construction.	Building modifications or expansions that comply with the lot and building standards for the Neighborhood Conservation Sub-districts.	Director	See Subsection 15-715.06., Neighborhood Conservation Building or Improvement Plans.

Commented [AT34]: There are no more NC districts.

Table ~~(15-7)~~11-813.02.

Administrative Permits

Permit	Required For	Timing	Exceptions	Issued By	Standards ¹
Grading, Excavating, and Land Clearing Permit	Sites that include significant stands of trees that are being prepared for development or redevelopment.	Prior to any land clearing as set out in Subsection 15-614.02 , <i>Land Clearing</i> and Subsection 15-614.03 , <i>Tree Protection</i> .	Subject to the criteria set out in Subsection 15-614.02 , <i>Land Clearing</i> and Subsection 15-614.03 , <i>Tree Protection</i> .	{Director} Zoning Administrator	See Subsection 15-614.02 , <i>Land Clearing</i> and Subsection 15-614.03 , <i>Tree Protection</i> .
Environmental Permits					
Floodplain Development Permit	Construction and development within an area of special flood hazard or flood-related erosion hazard.	Prior to commencement of land disturbance activity or construction in an area of special flood hazard or flood-related erosion hazard	None	{Director} Zoning Administrator , in coordination with the Public Works Director	See Section 15-524 , <i>Floodplain Management and Flood Damage Prevention</i>
Other Permits					
Sign Permit	Installation of a new, enlarged, or replacement sign.	Prior to installation of sign or sign mount or any enlargement or improvement of an existing sign.	Signs that do not require a permit, as set out in Section 15-622 , <i>Application</i> .	{Director} Zoning Administrator or the Planning Commission in the DC district.	See Section 15-620 , <i>Signs</i> .
Certificate of Historic Appropriateness	Demolition, new construction, exterior alteration, modification, or addition to a designated historic property or property in a historic district.	Prior to issuance of permits that allow for new construction, exterior alteration, modification, or addition to a designated historic property.	{Denial by the Planning Commission.} None	{Director} Zoning Administrator , after public hearing approval of the Planning Commission.	See Subsection 15-715.10 , <i>Certificate of Historic Appropriateness (as applicable)</i> .
{Building Permit}	Construction, reconstruction, improvement, or repair of any building or structure for which a permit is required by applicable building codes.	Prior to commencement of construction.	None	Building Official	See Subsection 15-715.11, Building Permit and applicable building codes.
{Design Review} of uses set out in Section 15-421, <i>Single-Family and Two-Family Housing</i> and Section 15-423, <i>Manufactured Home Parks and Subdivisions</i>	Review of building orientation to a public street, massing elements, and vertical façade articulation for new buildings with first floor floor plates larger than 1,600 square feet.	Prior to issuance of permits that allows for new construction, exterior alteration, modifications, or additions to these uses and building types.	Exterior alterations, modifications, or additions to existing uses, buildings with a first-floor floor plate less than 1,600 square feet, and when, at the discretion of the Director, such requests are referred for approval of the Planning Commission.	Director, unless referred to the Planning Commission	See Section 15-421, <i>Single-Family and Two-Family Housing</i> and Section 15-423, <i>Manufactured Home Parks and Subdivisions</i>.

Commented [AT35]: I don't recall signs in the DC district requiring approval of the Commission.

Commented [AT36]: Outside the scope of the UDC.

Commented [AT37]: Not a permit type.

Table (15-7) 11-813.02. Administrative Permits					
Permit	Required For	Timing	Exceptions	Issued By	Standards ¹
Certificate of Occupancy	Occupancy of a building or structure	Upon completion of construction or before a change in occupancy	None	Building Official	See Subsection 15-715.13., Certificate of Occupancy and applicable building codes.
TABLE NOTE: ¹ Standards are provided for cross-reference purposes only, and do not exempt the application from all applicable standards of this (UDO) UDC.					

Commented [AT38]: Outside the scope of the UDC.

~~(15-7)~~11-813.03. Public Meeting and Hearing Approval

- A. **Generally.** Public meeting approvals are issued by the City after compliance with the requirement of this ~~(UDO)~~UDC is determined at a public meeting ~~(or hearing)~~, as set out in this Subsection. Meeting approvals requiring a public hearing are noted in ~~Table 15-713.03., Public Meeting Approvals~~, as applicable. ~~A public hearing determination is issued by either the Planning Commission or City Council during a public meeting. At a public hearing, the Planning Commission will recommend approval, denial, or conditions of approval to the City Council. In turn, the City Council will approve, deny, or approve with conditions at the conclusion of a public hearing at a public meeting.~~
- B. **Public Meeting Approvals Established.** The public meeting approvals required by this ~~(UDO)~~UDC are set out in ~~Table 15-713.03., Public Meeting Approvals~~. Other development permits may be required by State or Federal law ~~(, applicable building codes)~~, or the ~~Fremont~~ Municipal Code.
- C. **Public Hearing Meetings Established.** The public hearing meetings required by this ~~(UDO)~~UDC are set out in ~~Table 15-713.03., Public Meeting Approvals~~. Other development permits may be required by State or Federal law ~~(, applicable building codes)~~, or the ~~Fremont~~ Municipal Code.

Table (15-7) 11-813.03. Public Meeting Approvals					
Permit	Required For	Timing	Exceptions	Issued By	Standards ¹
<i>NO PUBLIC HEARING REQUIRED</i>					
(Use Permits)					
Zoning Clearance Permit, Limited Use	New limited uses or changes to an existing limited use	Prior to establishment of or a change to an existing limited use	None	Planning Commission	See 15-300, Land Uses lists the limited uses. The limited use standards are provided in Section 15-304, Limited and Conditional Uses.

Table ~~(15-7)~~11-813.03.

Public Meeting Approvals

Permit	Required For	Timing	Exceptions	Issued By	Standards ¹
Temporary Use Permit, Public and Commercial Events	Public and commercial events with an expected peak attendance of more than 1,500 persons	Prior to installation of temporary buildings or structures or establishment of a temporary use or event, whichever comes first.	Public and commercial events with an expected peak attendance of less than 1,500 persons may be permitted by the Director (see Table 15-713.02., Administrative Permits).	Planning Commission	See Subsection 15-305.02., Public and Commercial Events.
Temporary Use Permit, Construction, Storage, and Refuse Collection Uses	Uses set out in Table 15-305.05., Temporary Construction, Storage, and Refuse Collection Uses.	Prior to installation of temporary buildings or structures or establishment of a temporary use, whichever comes first.	None.	Planning Commission	See Subsection 15-305.05., Construction, Storage, and Refuse Collection Uses.
Plans and Plats					
{Site Plan}	All new development; all redevelopment that involves the destruction of existing buildings, and all expansions of more than 10 percent of the gross floor area of existing buildings.	Prior to building permit.	Single family dwellings on individual lots.	Planning Commission	See Subsection 15-716.03., Site Plan.
{Minor Subdivision in the AG District}	Lesser of: 1) up to eight new lots; or 2) 20 percent of the maximum number of lots that could be platted on the parent tract.	Prior to commencement of land disturbance activity and final plat approval, installation of public improvements, and issuance of applicable permits.	No new lot may take access to an existing highway, road, or street.	Planning Commission	See Subsection 15-505.05., Minor Subdivision in the AG District.
Preliminary Plat	Subdivision of land prior to submission of detailed construction drawings of all subdivision improvements.	Prior to commencement of land disturbance activity and final plat approval, installation of public improvements, and issuance of applicable permits.	[The approval of the preliminary plat shall lapse unless a final plat is submitted within two years from the date of such approval, unless an extension of time is applied for and granted by the Planning Commission.] Subdivisions not involving new streets, extension of public improvements, and not resulting in more than 4 lots.	Planning Commission	See Subsection 15-716.04., Preliminary Plat.
Final Plat	Subdivision of land and acceptance of public improvements	Within two (2) years from the date of preliminary plat approval, unless an extension of time is applied for and granted by the Planning Commission.	{Failure of the subdivider to pay the fees to record the plat within 30 days after approval shall render the final plat null and void.} None	City Council, with recommendation of the Planning Commission.	See Subsection 15-716.05., Final Plat.

Commented [AT39]: Again, I would strongly discourage this.

Commented [AT40]: Why is a minor subdivision in the AG district any different than a minor subdivision in any other district?

Table ~~(15-7)~~ 11-813.03.

Public Meeting Approvals

Permit	Required For	Timing	Exceptions	Issued By	Standards ¹
Design Review					
Design review of multifamily, nonresidential, and mixed use developments.	Development, redevelopment, substantial reconstruction, and expansion of existing buildings greater than 10 percent of the gross floor area.	Prior to building permit.	Single-family and two-family dwellings on individual lots.	Planning Commission	See Subsection 15-716.06., Design Review.]
Nominations to the National Register of Historic Places	Designation on the National Register of Historic Places	Prior to proposed nominations for the National Register of Historic Places	None	City Council, with recommendation of the Planning Commission.	See Subsection 15-716.08., Nomination to the National Register of Historic Places.
Petition to Designate Historic Properties or Districts	Designation of properties as historic.	Prior to establishment of historic properties or districts.	None	City Council, with recommendation of the Planning Commission.	See Section 15-716.15. City Designation of Historic Properties or Districts.
Sign Permit in Special Areas	Installation of a new, enlarged, or replacement sign in the DC district, along U.S. Highway frontages, and off-premise.	Prior to installation of sign or sign mount or any enlargement or improvement of an existing sign.	Signs that do not require a permit, as set out in Section 15-622, Application.	City Council, upon recommendation of the Planning Commission.	See Subsection 15-625.03., Special Area Sign Standards.
Variations and Appeals					
Minor Adjustments	Minor deviations from the standards of this UDC as applied to applications heard by the Planning Commission.	Prior to approval of an application that incorporates minor deviations.	None	Planning Commission	See Subsection 15-716.10., Minor Adjustments.]
PUBLIC HEARING REQUIRED					
Text and Map Amendments					
Text Amendments	Amendments to the Comprehensive Plan or this UDC.	Prior to any zoning or zoning change.	A petition by an individual or body other than those listed in Section 15-700, Administrative Bodies.	City Council, upon recommendation of the Planning Commission	See Section 15-716.14., Text Amendment.
Zoning and Zoning Changes (i.e. rezoning), including Planned Developments and Planned Development Amendments	Assigns a zoning district to property recently added to the ETJ, or changing the zoning of a lot or tract from one district to another.	Prior to use of any land or any change in land use other than those that are permitted in the respective district.	None	City Council, upon recommendation of the Planning Commission	See Section 15-716.13., Zone Change (Rezoning), including Planned Developments.
Use Permits					

Commented [AT41]: Not a permit type.

Commented [AT42]: Redundant to public hearing process.

Commented [AT43]: Redundant to public hearing process.

Commented [AT44]: Be careful of subjective sign review.

Commented [AT45]: According to subsection 15-716.10. minor adjustments only pertain to landscaping, buffering, parking, and loading. Also, according to the definition of minor change, adjustments can only be made up to "five feet." We've already cut the parking requirements in half, and unless the subcommittee finds otherwise we will be cutting the landscaping regulations is half so what is it that we are really trying to accomplish here?

Table ~~(15-7)~~11-813.03.

Public Meeting Approvals

Permit	Required For	Timing	Exceptions	Issued By	Standards ¹
Conditional Use Permit	New conditional uses; changes to an existing conditional use; material changes to or expansion of a conditional use.	Prior to establishment or modification of a conditional use.	None	City Council, upon recommendation of the Planning Commission	See Section 15-304, Limited and Conditional Uses and Subsection 15-716.11., Conditional Use Permit.
{Plats and Plans}					
Major Changes to Planned Development Preliminary or Final Plans	Major changes to an approved planned development preliminary or final plan.	Prior to the construction or development that is within the area proposed to be modified.	Minor changes to a planned development final plan may be permitted administratively (see Table 15-713.02., Administrative Permits).	Ratification by City Council, upon approval of the Planning Commission	See Subsection 15-716.12., Major Change to Planned Development Preliminary or Final Plans.
Text and Map Amendments					
Zone Change (rezoning), including Planned Developments	Changing the zoning of a parcel from one district to another.	Prior to any change in land use other than those that are permitted in the respective district.	None	City Council, upon recommendation of the Planning Commission	See Subsection 15-716.13., Zone Change (Rezoning), including Planned Developments.
Text Amendments	Amendments to the text of this UDO.	N/A	A petition by an individual or body other than those listed in 15-700, Administrative Bodies.	City Council, upon recommendation of the Planning Commission	See Subsection 15-716.14., Text Amendment.
Historic Preservation					
City Designation of Historic Properties or Districts	Designation of buildings, structures, objects, sites, and districts as historic.	N/A	None	City Council, upon recommendation of the Planning Commission	See Subsection 15-716.15., City Designation of Historic Properties or Districts.
Certificate of Historical Appropriateness	Demolition, new construction, exterior alteration, modification, or addition to a designated historic property.	Prior to issuance of permits that allow for new construction, exterior alteration, modification, or addition to a designated historic property.	None.	City Council, upon recommendation of the Planning Commission	See Subsection 15-716.16., Certificate of Historical Appropriateness (as applicable).
{Variances} Appeals and {Appeals} Variances					
Administrative Appeal	Appeals from decisions of City staff.	Within 10 days of the decision appealed.	None	Board of Adjustment	See Subsection 15-717.03., Administrative Appeals.

Table ~~{15-7}~~11-813.03.

Public Meeting Approvals

Permit	Required For	Timing	Exceptions	Issued By	Standards ¹
Variance	Deviation from the standards of this UDC.	Prior to building permit for improvements for which a variance is required; concurrently with other applications for development approval that include variances.	Prohibited uses shall not be allowed by variance.	Board of Adjustment	See Subsection 15-717.02 , <i>Variances</i> .
{Administrative Appeal}	Appeals from decisions of City staff.	Within 10 days of the decision appealed.	None	Board of Adjustment	See Subsection 15-717.03, <i>Administrative Appeals</i>.
Appeals to the City Council	Appeals from decisions of the Planning Commission.	Within 10 days of the decision appealed.	None	City Council	See Subsection 15-717.05 , <i>Appeals to City Council</i> .

TABLE NOTE:

¹ Standards are provided for cross-reference purposes only, and do not exempt the application from all applicable standards of this ~~{UDO}~~UDC.

~~{Sec. 15-7}~~§11-814 Standardized Development Approval Procedures

~~{15-7}~~11-814.01. Procedures for Review of Applications

- A. **Generally.** This Subsection sets out the general process for review of applications for [land use or development](#) ~~{or land use}~~ approval. Generally, the review process is initiated with an application pursuant to the requirements of [Section 15-712](#), *Application*, and proceeds through each subsequent Section (which describes a sequential step of the review process) until a decision is made on the application.
- B. **Simultaneous Review.** In some cases, more than one approval or permit must be issued in order to authorize construction or establish a use. Typically, approvals are granted sequentially from the general (e.g., rezoning to allow for the use or intensity requested) to the specific (e.g., a building permit), with approvals of varying levels of specificity between (e.g., preliminary plats, final plats, and/or site plans). However, an applicant may request that related approvals proceed simultaneously.

~~{15-7}~~11-814.02. Pre-Application Conference

- A. **Generally.** The purpose of a pre-application conference is to familiarize the applicant with the development review and approval process, and application provisions of this ~~{UDO}~~UDC that are required to permit the proposed development.
- B. **Optional, By Request.** Pre-application conferences are optional and may be requested for development types other than those of [Section C.](#), below. Pre-application conferences do not apply to administrative approvals.

C. **Requirements.** A pre-application conference is required for all applications for cluster and planned development~~[, traditional neighborhood development (TND)]~~, as well as applications for development in the following special or overlay districts:

1. Airport Overlay (AO) District;
2. Campus/University (CU) District;
3. Floodway Overlay (FW) and Flood Fringe (FF) Overlay Districts;
4. Historic Neighborhood (HN) Conservation Overlay District; and
5. Wellhead Protection (WP) Overlay District.

D. **Meeting Materials.**

1. The applicant shall bring to (or submit prior to) the pre-application conference sufficient supporting materials to explain:
 - a. The location of the project;
 - b. The proposed uses (in general terms);
 - c. The proposed arrangement of buildings, parking, access points, open spaces, and drainage facilities;
 - d. The relationship to existing development; and
 - e. The presence of natural resources, open water, floodplains, and floodways on the parcel(s) proposed for development.
2. The ~~Director~~Zoning Administrator may request additional information prior to or subsequent to the meeting.

E. **Authority of ~~Director~~Zoning Administrator.**

1. The ~~Director~~Zoning Administrator may establish a regular schedule for conducting pre-application conferences and may provide for conducting pre-application conferences in person, by telephone, by internet-based conferencing, or another method.
2. The ~~Director~~Zoning Administrator may waive a pre-application conference if it is agreed that such conference is unnecessary to serve the purposes set out in **Subsection A.**, above.

~~15-7~~11-814.03. Filing of Applications

- A. **Generally.** Every application for an approval required by this ~~UDO~~UDC shall be submitted on a form approved by the ~~Director~~Zoning Administrator and shall include the corresponding application fee that is established by the City Council, as amended from time to time.
- B. **Applicant.** Unless otherwise specified in this ~~UDO~~UDC, applications for review and approval may be initiated by the owner of the property that is the subject of the application or the owner's authorized agent. When an authorized agent files an application under this ~~UDO~~UDC on behalf of a property owner, the agent shall provide written documentation that the owner of the property has authorized the filing of the application. This requirement shall be satisfied upon the submittal of an application bearing the owner's name and signature.
- C. **Liens, Taxes, Assessments, and Debts to Public Entities.** No application for a permit or approval will be processed for property that is the subject of outstanding liens, delinquent taxes, delinquent assessments, or any other delinquent debts, fines, or obligations to the City, County, a school district, or other public-sector entity that provides services to the property.

- D. **Representation of Facts.** It shall be unlawful for any person to knowingly or willfully misrepresent or fail to include any information required by this ~~{UDO}~~UDC on any application. If development is approved upon an application that contains misrepresentations or fails to contain material facts required by the application, then the City shall place a stay or stop work order on the development or use, which shall remain in place until such time that the approval body receives the required information to its satisfaction.
- E. **Waiver of Submittal Requirements.** The ~~{Director}~~Zoning Administrator may waive certain submittal requirements in order to tailor the requirements to the information necessary to review a particular application.
- F. **Forms.**
1. The ~~{Director}~~Zoning Administrator shall promulgate~~[-the]~~ periodically revised forms for each type of application required by this ~~{UDO}~~UDC.
 2. Application forms shall include the specific information that is required to process each type of application. The specific information requirements shall be established and periodically revised by the ~~{Director}~~Zoning Administrator, and have the purpose of facilitating:
 - a. The evaluation of applications for compliance with the standards of this ~~{UDO}~~UDC; and
 - b. The administration of this ~~{UDO}~~UDC.
- G. **Schedule.** The ~~{Director}~~Zoning Administrator is authorized, but not required to, establish regular intake days for any or all classifications of applications for development approval, provided that:
1. The schedule is posted at City Hall and on the City's web site; and
 2. The schedule provides for applications to be submitted:
 - a. At least once per week for applications listed in **Section 15-715, Administrative Permits and Procedures**, except use, building, and occupancy permits, which shall not be limited to certain days.
 - b. At least twice per month for applications listed in **Section 15-716, Public Meeting and Hearing Permits and Procedures**.
 3. The schedule does not restrict the timing of notices of appeal.
- H. **Additional Requirements.** The ~~{Director}~~Zoning Administrator or any representative of the City, service or utility provider, or County who has authority to review and/or approve may also add requirements to the submittal when it is reasonably foreseeable that additional information will be needed to resolve questions of compliance with the requirements of this ~~{UDO}~~UDC or other policies or plans of the City, any service or utility provider, or County that is associated with or may be affected by the project.

~~{15-7}~~11-814.04. Fees

- A. **Generally.** The City Council shall from time to time establish fees~~[-by resolution]~~ for the processing and review of the various applications that are required by this ~~{UDO}~~UDC. The fees shall be reasonable, but shall not exceed the actual costs to review the applications. The City Council may provide for a flat fee, plus require the reimbursement of extraordinary costs to the City that are necessitated by an application, such as fees for expert technical review or advice from consultants.
- B. **Relationship to Application.** No application shall be eligible to be determined complete until all application fees are paid in full.

- C. **No Refunds.** Once an application has been reviewed and determined complete, pursuant to **Subsection 15-714.05.**, *Application Completeness Review*, the fee is non-refundable.

~~{15-7}~~11-814.05. Application Completeness Review

- A. **General.** ~~{Within five business days after an application is submitted, the Director shall review the application to verify that it is complete.}~~ Every application for development approval shall be submitted on a form approved by the ~~{Director}~~**Zoning Administrator**; or in the case of building permits, the Building Official; along with the corresponding application fee.
- B. **Incomplete Applications.**
1. Incomplete applications shall be returned to the applicant with a written explanation that describes in general terms the materials that must be submitted to complete the application.
 2. No application that does not include the application processing fee shall be considered complete.
- C. **Complete Applications.** Complete applications shall be processed according to the applicable procedures of **Section 15-710**, *Permits and Procedures*.

Commented [AT46]: What's the penalty – a lack of determination does not constitute completeness?

~~{15-7}~~11-814.06. Termination of Inactive Applications

- A. **Generally.** Applications for development approval must be diligently pursued by the applicant.
- B. **Expiration of Inactive Applications.**
1. When an action by the applicant is required for further processing of an application (for example, submittal of supplementary documentation), the application shall become void six **(6)** months after the date that the action is requested if:
 - a. The applicant fails to take action; or
 - b. The applicant fails to request an extension of time pursuant to **Subsection C.**, below.
 2. When an action by the applicant is required for further processing of an application for preliminary or final plat approval, the application shall become void **thirty (30)** days from receipt of the application if the application has remained dormant during that period where no activity has occurred toward the completion of the application where changes or corrections are required or where instruments or documents requested or required is not forthcoming within that period from the property owner or authorized agent.
 3. No refunds of application fees will be issued to applicants whose applications expire pursuant to this Subsection.
- C. **Extension of Time.** The time for expiration of an application may be extended by up to six **(6)** months upon written request of the applicant before the end of the period set out in **Subsection B.**, above.
- D. **Effect of Expiration.** Applications that expire shall automatically become null and void, closed, and discarded without further notice or activity by the City. Any application, will be treated as a new application, subject to requirements in effect at the time of the most recent submittal, and with new fees.

~~{15-7}~~11-814.07. Staff Review and Referral

A. **Staff Review.** When the ~~{Director}~~**Zoning Administrator** determines that an application is complete, then the ~~{Director}~~**Zoning Administrator** shall cause the application to be reviewed for technical compliance with the requirements of this ~~{UDO}~~**UDC**; and

1. If the application is for an administrative permit, shall approve, approve with conditions, or deny the application.
2. If the application is for a public meeting or hearing approval, shall make a recommendation regarding the application and forward the recommendation to the next body that will consider it for further recommendation or approval, as set out in **Table 15-713.03.**, *Public Meeting Approvals*.

Commented [AT47]: Do you want the recommendation of the Zoning Administrator?

B. **Recommended Revisions.**

1. The ~~{Director}~~**Zoning Administrator**, or other responsible official, shall provide comments from City Staff to the applicant, who shall revise and resubmit materials with appropriate changes within the time required by **Subsection 15-714.06.**, *Termination of Inactive Applications*.
2. The resubmittal shall not require an application fee unless both of the following conditions are met:
 - a. The revisions are inappropriate or incomplete; and
 - b. Repeated failure to address comments requires more than three **(3)** rounds of revisions.

C. **Meeting Logistics.**

1. If the application is for a public meeting or hearing approval, the ~~{Director}~~**Zoning Administrator** shall set the application on the next available agenda of the next body that will consider the application, consistent with the legal requirements for public notice, as set out in **Subsection 15-714.09.**, *Public Notice*.
2. The ~~{Director}~~**Zoning Administrator** shall coordinate with decision-making bodies to fix reasonable times for hearings.
3. The ~~{Director}~~**Zoning Administrator** shall notify the applicant regarding the time and place of a public hearing.

~~{15-7}~~**11-814.08. Additional Recommendations**

A. **Generally.** The City Council, Planning Commission, or Board of Adjustment may, at their discretion, seek additional recommendations from any City department, board, commission, ad hoc committee, task force, subcommittee, group or organization, Chamber of Commerce, or others as felt necessary to make any decision or to gain insight or information related to any case or decision pending before them if within their purview to seek such evidence.

B. **Disclosure.** The additional recommendations shall be made a part of the record of the case and the contact and substance of the recommendation shall be disclosed before a decision on the case is made.

~~{15-7}~~**11-814.09. Public Notice**

A. **Generally.** Public notice, if required, shall be provided in accordance with the requirements of ~~{the}~~**this** Subsection. The content of notices shall be according to the policies adopted by the City or as required by law.

B. **Required Notice.** Set out in **Table 15-714.09., Required Notice**, is the notices that are required for each type of application or procedure for which notice is required. Approvals and procedures that are not listed do not require notice unless notice is required by statute.

Table (15-7) 11-814.09.			
Required Notice			
Type of Application	{Posted Notice^{1,2,4,5}}	Publication Notice ^(2,4)	Mailed Notice ^{2,4,5}
Text and Map Amendments			
Text Amendment	-	Required	Not Required
Zoning and Zoning Change, including Planned Development and Planned Development Amendments	-	Required	Required
Use Permits			
Conditional Use Permit	{Required}	Required	{See Table Notes 2 and 4} Required
{Text and Map Amendments}			
Zone Change	Required	Required	See Table Notes 2 and 4
Text Amendment	Not Required	Required	Not Required}
Historic Preservation			
City Designation of Historic Property or District	{Required}	Required	Required
Certificate of Historical Appropriateness	{Required}	Required	Required
Variances and Appeals			
Variance	{Required}	Required	Not Required
Appeals	{Not Required}	Required	Not Required

Table ~~{15-7}~~11-814.09.

Required Notice

Type of Application	{Posted Notice^{3,4,5}}}	Publication Notice ^{3,4,5}}	Mailed Notice ^{3,4,5}}
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TABLE NOTES:

1. Notice of the time and place of such hearing shall be given by publication thereof in a paper of general circulation in the City at least one (1) time 10 days prior to such hearing.
2. Notice shall be posted in a conspicuous place on or near the property on which action is pending. Such notice shall not be less than 18 inches in height and 24 inches in width with a white or yellow background and black letters not less than 1.5 inches in height. Such posted notice shall be so placed upon such premises that it is easily visible from the street nearest the same and shall be so posted at least 10 days prior to the date of such hearing. It shall be unlawful for anyone to remove, mutilate, destroy, or change such posted notice prior to such hearing. Any person so doing shall be deemed guilty of a misdemeanor.
3. ~~{At the option of the City Council,}~~ In place of the posted notice provided above, the owners or occupants of the real estate to be zoned or rezoned and all real estate located within 300 feet of the real estate to be zoned or rezoned may be personally served by certified mail at least 10 days prior to the date of the hearing, if they can be served with such notice within the county where such real estate is located. Where such notice cannot be served personally upon such owners or occupants in the county where such real estate is located, a written notice of such hearing shall be ~~{sent by certified}~~ mailed to such owners or occupants addressed to their last-known addresses, according to the most recent tax roll, at least 10 days prior to such hearing.
4. ~~{Notice of the time and place of such hearing shall be given by publication thereof in a paper of general circulation in the City at least one time 10 days prior to such hearing.}~~
4. If the record title owners of any lots included in such proposed change are nonresidents of the municipality, then a written notice of such hearing shall be mailed by certified mail to them addressed to their last-known addresses at least 10 days prior to such hearing.
5. The provisions of notice shall not apply (1) in the event of a proposed change in such regulations, restrictions, or boundaries throughout the entire area of an existing zoning district or of such municipality, or (2) in the event additional or different types of zoning districts are proposed, whether or not such additional or different districts are made applicable to areas, or parts of areas, already within a zoning district of the municipality, but only the requirements of Table Note ~~{3}~~ shall be applicable.

Commented [AT48]: We're exercising our option now.

- C. **Computation of Time.** In computing the time periods for providing notice pursuant to this Subsection, the day of mailing, publication, or posting shall not be counted, but the day of the public hearing shall be counted.
- D. **Constructive Notice.** Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice in a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a location map that is not substantial with respect to the general location of the property, typographical or grammatical errors, or errors of actual acreage that do not impede communication of the notice to affected parties. Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a public hearing shall be strictly construed. If questions arise at the public hearing regarding the adequacy of notice, the decision-making body shall direct City staff to make a formal finding as to whether there was substantial compliance with the notice requirements of this ~~UDO~~UDC, and such findings shall be made available to the decision-making body at the same meeting or prior to final action on the request.

~~15-7~~11-814.10. Public Meetings and Hearings

- A. **Generally.** All meetings of ~~appointed Boards~~City Council, Planning Commission, and ~~Councils~~Board of Adjustment shall be open to the public except as otherwise provided by the Nebraska Open Meetings Act set out in Nebraska §84-1410.
- B. **Joint Meetings.** Any public hearing required by this ~~UDO~~UDC or the laws of the State of Nebraska may be held jointly with any public hearing required to be held by any other ~~Board, Planning~~ Commission, or ~~Council of the City~~Board, except the Board of Adjustment. Such joint meetings may be held after public notice as required by law.
- C. **Consent Agenda.** The consent agenda may consist of all matters brought before ~~the Board,~~City Council, ~~or~~ Planning Commission, or Board of Adjustment for action that does not require a public hearing. All items on the consent agenda shall be approved simultaneously by motion without comment or debate. An item may be removed from the consent agenda prior to approval at the request of any member of ~~the Board~~City Council, Planning Commission, or ~~Council~~Board of Adjustment present at the meeting, or by City staff. Items removed from the consent agenda shall be considered on the regular agenda.
- D. **Public Hearings.**
1. *Procedures.* ~~Boards~~City Council, Planning Commission~~s~~, and ~~Councils~~Board of Adjustment will adopt rules of procedure for the conduct of public hearings. The following general procedures shall be reflected in the adopted rules of procedure.
 - a. Any person may appear at a public hearing, submit evidence, and be heard.
 - b. If a speaker represents an organization, the body conducting the hearing may request written evidence of that person's authority to speak on behalf of the group in regard to the matter under consideration.
 - c. Persons appearing at a public hearing shall identify themselves and state their address and similar information about any organization they represent.
 - d. Citizens, applicants, and the City have the right to present expert witnesses.

- e. The chairperson may impose a reasonable time limit on speakers and may limit testimony that is irrelevant or redundant.
2. *Representation.* Persons appearing before ~~{a-Board}~~City Council, Planning Commission, or ~~{Council}~~Board of Adjustment may appear in person or through a representative or agent. The representative or agent shall provide satisfactory proof of his or her authority upon the request of the City~~, {Board}, Council,~~ Planning Commission, or ~~{Council}~~Board of Adjustment.
 3. *Quorum.* The number of members of ~~{a-Board}~~City Council, Planning Commission, or ~~{Council}~~Board of Adjustment that is required in order to constitute a quorum is set out in the applicable Subsections of **Section 15-703, Bodies Established and Authorized** or the **Fremont** Municipal Code.
 4. *Decisions.*
 - a. Except where this ~~{UDO}~~UDC or State Statues provides otherwise, official action requires the favorable vote of a majority of a quorum present.
 - b. The concurring vote of ~~{a majority of the}~~four (4) members of the ~~{BOA present and voting}~~Board of Adjustment shall be necessary to reverse any order, requirements, decision, or determination ~~{or}~~of any administrative official, consistent with **Fremont Municipal Code §2-203.**
 - c. Except when voice votes are authorized, a vote shall be conducted in such a manner that the public may know the vote of each person entitled to vote.
 5. *Time Limitation for Decisions.*
 - a. For ~~{zone}~~zoning change (*i.e.* rezoning) applications, if the Planning Commission does not provide a recommendation to the City Council within **sixty (60)** days after the Planning Commission begins consideration of the matter, the Planning Commission shall either request an extension from the City Council or make a final report to the City Council. If no extension is granted or no final report is made within the **sixty (60)** day period, then the proposed amendment shall proceed to the City Council as a final report with no recommendation.
 - b. For preliminary plats, the Planning Commission shall approve, approve with conditions, or disapprove the preliminary plat within **sixty (60)** days after its submission. ~~{The Chairperson will have 14 calendar days after a decision has been made by the Planning Commission to sign the plat.}~~
 6. *Conditions of Approval.* Some procedures set out in this ~~{UDO}~~UDC authorize the decision making body to impose such conditions upon the premises benefited by the approval as may be necessary to reduce, minimize, or eliminate potential adverse impact upon other property in the area, or to carry out the general purpose and intent of the Comprehensive Plan and this ~~{UDO}~~UDC. In such cases, any conditions attached to approvals shall be directly related to the impacts of the proposed use or development and shall be roughly proportional in both extent and amount to the anticipated impacts of the proposed use or development or shall carry out the general purpose and intent of the Comprehensive Plan and this ~~{UDO}~~UDC. No conditions of approval, except for those attached to variance or minor adjustment approvals, shall be less restrictive than the requirements of this ~~{UDO}~~UDC.

Commented [AT49]: Preliminary plats are not signed.

~~{15-7}~~11-814.11. Continuances and Withdrawal

A. **Generally.** Consideration of applications may be continued, or applications withdrawn as provided in this Subsection.

B. **Continuances.**

1. *Request or Motion to Continue.* Consideration of an application may be continued upon motion of the ~~{Board}~~City Council, Planning Commission, or ~~{Council}~~Board of Adjustment or upon request of the applicant before a decision is made on the application.

2. *Period of Continuation.* Should any item before a ~~{Board}~~City Council, Planning Commission, or ~~{Council}~~Board of Adjustment be tabled in anticipation of information or events to occur prior to rendering a decision, such tabling shall be for not longer than the second meeting following the meeting at which the time was tabled.

~~3. {Decision Required.}~~

~~a. If at the conclusion of the continuation period the item under consideration remains in the same or unchanged state or condition as existed when the item was initially tabled, the item shall be removed from the table, and shall either be approved based on the available information or shall be disapproved.~~

~~b. If the item before the Planning Commission was a preliminary plat, the decision to approve or deny the plat shall be made within 14 calendar days of the Planning Commission meeting, unless the subdivider consents in writing to an extension of this time limit.~~

C. **Withdrawal.** Any application may be withdrawn, either in writing or on the record during the proceedings before the recommendation or decision is made.

~~{15-7}~~11-814.12. Approval; Effect of Approval

Approval of an application shall be deemed to authorize only the particular use, plan, or other specific activity for which the approval was granted. Approvals shall run with the particular land for which approval is given, except that conditional use approvals may be conditioned upon operation of the use by the applicant, and text amendments to this ~~{UDO}~~UDC are not related to particular parcels.

~~{15-7}~~11-814.13. Successive Application

A. **Generally.** It is the policy of the City not to hear successive applications for a substantially similar application after an application is denied. The limitations of this Subsection prevent the consideration of successive applications.

B. **Time Required Between Substantially Similar Applications.** The City shall not accept any application that is substantially similar to an application that was denied within the period set out below:

1. *Generally.* Six ~~(6)~~ months shall elapse between the date an application is denied and the date a substantially similar application is filed.

2. *Zoning Changes. Zoning change (i.e. rezoning) applications follow the general rule of ~~Subsection B.1., above, except that if substantially similar zone change applications are denied twice, two (2) years shall lapse from the last date of denial before a new substantially similar application is accepted for processing.~~*

3. *Certificates of Appropriateness.* One ~~(1)~~ year shall elapse between the date an application is denied and the date a substantially similar application is filed.

Commented [AT50]: Redundant. See subsection 11-814.10.D.5.b. above.

~~4. [Zone Changes- Zone change (rezoning) applications follow the general rule of Subsection B.1., above, except that if substantially similar zone change applications are denied twice, two years shall elapse from the last date of denial before a new substantially similar application is accepted for processing.]~~

C. **Appeal and Waiver of Restrictions.** The ~~{Director's}~~ **Zoning Administrator's** determination that an application is substantially similar to a denied application is subject to administrative appeal. In the alternative to an appeal, the applicant may seek a waiver of the successive application rules from the City Council, which may grant the waiver for good cause shown. Such good cause shall include, but not be limited to, such factors as:

1. An approved amendment to the Comprehensive Plan or this ~~{UDO}~~ **UDC** would potentially allow for the application to be processed for approval;
2. Changed conditions justify the waiver (e.g., the proposed use requires spacing from another use, and the other use moves away, or infrastructure was not sufficient to support the proposed development, but has since been improved); or
3. The City Council finds that there was an error in the processing of the application that could not have been remedied by administrative appeal (successive applications shall not be used as a substitute for an appeal if an appeal could be used to resolve an allegation of error).

Fiscal Impact: N/A