CHAPTER 19.6: ADMINISTRATION

19.6.1. PURPOSE AND ORGANIZATION OF CHAPTER

A. This Chapter describes the procedures for review and approval of all applications for development activity in Henderson. Section 19.6.2, Review and Decision-Making Bodies, includes a summary table listing the land use and development procedures in this Code and describes the responsibilities of the bodies that review and decide upon development applications.

B. Section 19.6.3, Common Review Procedures, describes standard procedures that are applicable to all or most types of procedures.

C. Sections 19.6.4 through 19.6.9 should be read and administered in conjunction with Section 19.6.3, and include additional provisions unique to each type of procedure, such as public hearing requirements and approval criteria.

19.6.2. REVIEW AND DECISION-MAKING BODIES

A. SUMMARY TABLE

Table 19.6.2-1 summarizes the review and decision-making responsibilities of the entities that have roles in the procedures set forth in this Chapter. Other duties and responsibilities of these entities are set forth in subsequent subsections of this Chapter. Bracketed numbers refer to notes at the bottom of the table.

TABLE 19.6.2-1: SUMMARY TABLE OF DEVELOPMENT REVIEW PROCEDURES

R = Review D = Decision A = Appeal <> = Public Hearing

Procedure (Section)	Review and Decision-Making Bodies			
	Development Review Committee	Community Development and Services Director	Planning Commission	City Council
Comprehensive Plan and Zoning				
Comprehensive Plan (Text and Map) (19.6.4.A)	R {1}	R	<R>	<D>
Development Code Text Amendment (19.6.4.B)		R		D
Rezoning (19.6.4.C)	R {2}	R	<R>	D
Rezoning to MP or PUD Overlay District (19.6.4.D)	R {2}	R	<R>	D
Land Division				
Parcel Map (19.6.5.A) {3}		D	A	
Boundary Line Adjustment (19.6.5.B) {3}		D	A	
Tentative Map (19.6.5.D)	R {2}	R	D	A
Final Map (19.6.5.E) {3}		D	A	
Reversion to Acreage (19.6.5.F)		D	A	

TABLE 19.6.2-1: SUMMARY TABLE OF DEVELOPMENT REVIEW PROCEDURES

R = REVIEW D = DECISION A = APPEAL <> = PUBLIC HEARING

PROCEDURE (SECTION)	REVIEW AND DECISION-MAKING BODIES			
	DEVELOPMENT REVIEW COMMITTEE	COMMUNITY DEVELOPMENT AND SERVICES DIRECTOR	PLANNING COMMISSION	CITY COUNCIL
ENTITLEMENTS				
Conditional Use Permit (19.6.6.A)		R	<D>	<A>
Design Review (19.6.6.B)	R {2}	D {4}	A	A
Redevelopment Area Review (19.6.6.C) {5}		D		
Temporary Use Permit (19.6.6.D)		D	A	
SIGNS				
Master Sign Plan (19.6.7.B)	R	D	A	A
Master Sign Plan with exceptions or modifications (19.6.7.B)	R	R	<D>{10}	A
VACATION				
Type I (Streets/Non-Municipal Easements) (19.6.8.A)	R	R	<R>	D
Type II (Municipal Easements) (19.6.8.B)		R		D
MODIFICATIONS AND APPEALS				
Administrative Adjustment (19.6.9.B)		D {6}	A	
Variance (19.6.9.C)	R	R	<D>	<A>
Waiver (19.6.9.D) {7}{8}		R	<D>	<D>
Waiver of Standards Application (19.6.9.G) {8}{9}		R	<D>	<D>
Appeal (19.6.9.E)			D	A
Interpretation (19.6.9.F)		D	A	
OTHER PROCEDURES				
Development Agreement (19.6.10.A)		R	<R>	<D>
Creation of Landscape Maintenance District (19.6.10.B)		R	<R>	<D>

NOTES:

{1} Amendments to the future land use map of the Comprehensive Plan require review of a concept plan by the Development Review Committee.

{2} Amendments to the Master Plan Overlay District, design review applications with structures of 50,000 square feet or more of floor area, and Projects of Significant Impact require concept plan review by the Development Review Committee.

{3} Recombinations of existing lots resulting in subdivisions of five or more lots are reviewed in accordance with the procedure for final maps (Section 19.6.5.D); all others are reviewed in accordance with the procedure for a parcel map (Section19.6.5.A).

{4} A design review application associated with another type of application, such as a Conditional Use Permit, shall be processed concurrently with the other application, and shall be reviewed and decided by the same decision-making body deciding the other application.

{5} Appeals are heard by the Redevelopment Agency.

{6} Administrative adjustments shall be approved prior to final decision on design review applications.

{7} Waivers may be requested in conjunction with either a PUD or MP overlay or separately with a Waiver of Standards application.

{8} Waivers requested in conjunction with a PUD or MP overlay are final action at City Council. Waivers requested with a Waiver of Standards application may be final action at Planning Commission.

TABLE 19.6.2-1: SUMMARY TABLE OF DEVELOPMENT REVIEW PROCEDURES

R = REVIEW D = DECISION A = APPEAL <> = PUBLIC HEARING

PROCEDURE (SECTION)	REVIEW AND DECISION-MAKING BODIES			
	DEVELOPMENT REVIEW COMMITTEE	COMMUNITY DEVELOPMENT AND SERVICES DIRECTOR	PLANNING COMMISSION	CITY COUNCIL
{9} Waiver of Standards applications associated with another type of application, such as a rezoning/zone change, shall be processed concurrently with the other application and shall be reviewed and decided by the same decision-making body.				
{10} Section 19.8.11.H states that exceptions and modifications of sign regulations are final action at Planning Commission unless appealed.				

B. PLANNING COMMISSION

1. Establishment, Duties, and Authority

The Planning Commission is established pursuant to the authority of City of Henderson Ordinance No. 40, adopted on September 23, 1953. The Planning Commission shall have all powers granted and shall perform all duties imposed by the Charter and NRS 278.030 through 278.260. The Planning Commission shall have the review and decision-making authority listed in Table 19.6.2-1, *Summary Table of Development Review Procedures*, and in addition shall have the following duties and responsibilities:

(a) Develop and recommend to the City Council new policies, ordinances, administrative procedures, and other tools related to land development and re-development;

(b) Conduct studies and recommend to the City Council any other new plans, goals, and objectives relating to growth, development, and redevelopment of the city;

(c) Act in the capacity of the Zoning Board of Adjustment, unless the Board has been otherwise appointed; and

(d) Perform any other duties assigned by the City Council.

2. Membership

(a) The Planning Commission shall consist of seven members who shall be appointed and shall serve in accordance with the City Council's adopted Policy on Board and Commission Appointments.

(b) The Planning Commission shall also include three ex officio members: the Mayor; the City Engineer; and the City Attorney.

(c) Ex officio members shall serve as members in an advisory capacity only. Ex officio members shall not be counted toward quorum of the Planning Commission and shall not be entitled to vote on matters before the Planning Commission.

3. Compensation

All members of the Planning Commission shall receive compensation as provided by resolution by the City Council.

4. Removal of Members

Members of the Planning Commission may be removed, after a public hearing, by a majority vote of the City Council for inefficiency, neglect of duty, or malfeasance of office.

5. Vacancies

Vacancies occurring other than through the expiration of a term shall be filled for the unexpired term in accordance with the City Council's adopted Policy on Board and Commission Appointments.

6. Bylaws and Rules

In addition to the powers, duties, and authority prescribed by NRS 278.030 through 278.260, inclusive, the Planning Commission shall have the power to adopt rules and bylaws governing the order and procedure of the Planning Commission consistent with Henderson Municipal Code Section 2.50.

C. CITY STAFF

1. Development Review Committee

The Development Review Committee shall have the review authority listed in Table 19.6.2-1, *Summary Table of Development Review Procedures*. In addition, the Development Review Committee shall be responsible for review and comment on all concept plans in accordance with Section 19.6.3.A.3, *Concept Plans,* and impact statements associated with Projects of Significant Impact in accordance with Section 19.6.3.A.4, *Projects of Significant Impact*.

2. Community Development and Services Director

The Community Development and Services Director shall have the review and decision-making authority listed in Table 19.6.2-1, *Summary Table of Development Review Procedures*.

19.6.3. COMMON REVIEW PROCEDURES

The common review procedures in this section provide a foundation for the specific review and approval procedures in Sections 19.6.4 through 19.6.9. See 19.6.4 through 19.6.9 to determine which of these common procedures apply to an individual application for development review.

A. PRELIMINARY APPLICATION PROCEDURES

The procedures in this section shall apply to all applications for development permits or approvals under this Code at the beginning of the review process, unless otherwise stated.

1. Authority to File Applications

Applications for review and approval under this Code may be initiated by any of the following:

(a) Petition of all the owners of the land that is the subject of the application.

(b) The owners' authorized agent(s).

COMMENTARY

When a review or decision-making body initiates action under the Henderson Development Code, it does so without prejudice toward the outcome.

(c) The official representatives of a homeowner's or property-owner's association in a master-planned development where the master developer has ceded control of the development to the association.

(d) A lot owner or developer of a portion of a master-planned development provided the application is limited to the land under their ownership or control.

(e) City of Henderson staff acting under the direction of the Planning Commission or City Council.

(f) Public or private utility providers.

2. Form of Application and Application Filing Fees

Applications required under this chapter shall be submitted in a form and in such numbers as required by the official responsible for accepting the application. Applications shall be accompanied by the fee amount that has been established by the City Council. Fees are not required with applications submitted by the City Council, Planning Commission, Clark County School District, or City agencies or staff. Application fees are nonrefundable, unless otherwise expressly stated.

3. Concept Plans

(a) Purpose

The purpose for the concept plan is to allow for a general review of a proposed development before a formal application is submitted.

(b) Applicability

(1) Unless waived by the Community Development and Services Director, concept plan review by the Development Review Committee shall be required prior to submission of an application for:

i. Comprehensive Plan future land use map amendments (Section 19.6.4.A);

ii. Rezonings to Planned Unit Developments (PUD) or to the Master Plan (MP) Overlay (Section 19.6.4.D);

iii. A use with 50,000 square feet or more of floor area (Section 19.6.6.B.3);

iv. Redevelopment on lots within the redevelopment overlay (Section 19.6.6.C, Redevelopment Area Review, and Section19.4.7, Redevelopment Overlay);

v. Projects of Significant Impact (subsection (4) below);

vi. Projects of Regional Significance (subsection (5) below);

vii. Hillside projects, or projects with slopes greater than 15 percent;

viii. Any Wireless Communication Facility as defined by Section 19.5.4.T; or

ix. Any school for grades K-12.

(2) Concept plan review by the Development Agreement Advisory Committee shall be required prior to submission of an application for any development that meets the development agreement criteria in Section 19.6.10.A.1.

(c) Pre-Application Meetings

Applicants are entitled and encouraged to schedule and attend pre-application meetings with the Community Development and Services Department staff prior to submitting a concept plan application for review under this Code.

(d) Application Filing

Applications for concept plan review shall be submitted in the form required by the City to the Community Development and Services Director.

(e) Community Development and Services Director's Responsibilities

Upon receipt of a concept plan review application, the Community Development and Services Director shall, within three days from the deadline date, set a time and place for a meeting of the Development Review Committee and provide notice of the meeting and one copy of all plans and materials to each member of the Development Review Committee. Notice of the meeting time shall also be provided to the applicant. The Development Review Committee meeting shall be held within ten business days of the date that a complete application is received, unless the applicant requests a later date.

(f) Development Review Committee Action

At the Development Review Committee meeting, the Community Development and Services Director shall describe the requirements of the review process. Committee members shall:

(1) Ask questions of the applicant to clarify their understanding of the applicant's intent;

(2) Ensure the applicant understands all required steps in the development review process; and

(3) State their concerns based on preliminary review of project plans and materials.

(g) Meeting Notes Provided

Within three days after the Development Review Committee meeting, the committee shall provide notes from the meeting to the applicant summarizing the Development Review Committee's comments.

4. Project of Significant Impact

(a) Applicability

A Project of Significant Impact as defined by this Code shall be required to submit impact statements for review and comment by the Development Review Committee prior to, or in conjunction with, an application for concept plan review and prior to submittal of a subsequent application.

(b) Exemption

Projects having obtained land use, zoning, tentative map, design review, or final map approvals prior to July 1, 1999, shall be exempt from the provisions of this section.

(c) Required Impact Statements

Impact statements shall be required for a Project of Significant Impact and prepared on a form as established by the Community Development Director.

COMMENTARY

Projects of Significant Impact include:

- **500 or more dwelling units,**
- **300 or more hotel rooms,**
- **Nonresidential development on 160 or more acres, or**
- **Commercial/industrial development generating more than 3,000 average daily vehicle trips.**

(d) Subsequent Applications

Subsequent applications for land use, zoning, tentative map, design review, or final map shall not be accepted until the concept plan review has been completed and all impact statements required by this section have been submitted.

5. Projects of Regional Significance

(a) Determination

(1) General

A Project of Regional Significance, as defined in Chapter 19.12: *Measurement and Definitions*, shall be identified as such by the applicant prior to application submittal. An application that does not provide this information, or provides incorrect information, shall be deemed incomplete.

(2) Regional Infrastructure Projects

Regional Infrastructure Projects shall be identified as such by the agency proposing the project (proposing agency), in accordance with Southern Nevada Regional Planning Coalition (SNRPC) regulations.

COMMENTARY

Proposed developments within one-half mile of the city limits may be considered as Projects of Regional Significance depending upon the number of units, or the amount of traffic generated. Projects of Regional Significance are defined in Chapter 19.12: *Measurement and Definitions*.

(3) Exemption

Site-specific or Regional Infrastructure Projects that have obtained approval pursuant to this process, unless they contain material changes or substantial additional information is provided, such that the Community Development and Services Director or proposing agency determines that additional assessment, referral, and comment is merited, shall be exempt from the provisions of this section. This exemption includes Regional Infrastructure Projects that have been reviewed under the SNRPC conformity review process.

(b) Timing of Review

Review of Projects of Regional Significance by affected local governments shall take place following a determination of application completeness, but shall be

completed prior to review of the application by a decision-making body established in this Code.

(c) Assessment and Referral

If the Community Development and Services Director determines that the threshold criteria for a site-specific Project of Regional Significance is met, the Community Development and Services Director shall immediately notify the affected jurisdiction(s) and provide the affected local government with copies of any application materials, as well as an impact assessment that includes at a minimum:

(1) The number of vehicle trips that the project will generate, estimated by applying to the proposed project the average trip rates for the peak days and hours established by the Institute of Transportation Engineers (ITE) or its successor.

(2) The estimated number of additional pupils for each elementary school, junior high or middle school, and high school that the project will cause to be enrolled in local schools.

(3) The distance from the site on which the project will be located to the nearest facilities from which fire-fighting, police and emergency services are provided, including, without limitation, facilities that are planned, but not yet constructed, and facilities that have been included in a plan for capital improvements prepared by the appropriate local government pursuant to NRS 278.0226.

(4) A brief statement setting forth the anticipated effect of the project on housing, mass transit, common open space, and recreation.

(5) The proposing agency of a regional infrastructure project shall provide an assessment of the regional and multi-jurisdictional impacts of the proposed project directly to the SNRPC prior to application submittal. The proposing agency shall cooperate with the SNRPC in providing information and communicating about the proposed project.

(d) Comment

Upon receipt of the referral, the affected local government shall have 15 calendar days within which to provide mitigation comments to the Community Development and Services Director. The mitigation comments may propose ways in which the affected local government believes any negative impacts of the project on the affected local government can be mitigated.

6. Upon receipt of notice of a regional infrastructure project and the assessment by a proposing agency, the SNRPC will review the proposed project and assessment and take necessary action, including comments on ways in which negative impacts of the proposed project can be mitigated.

(a) Mitigation

The Community Development and Services Director shall give consideration to the mitigation comments and require mitigation of potential negative impacts on the affected local government to the maximum practical extent. The Community Development and Services Director shall make written findings of the way in which the mitigation comments were addressed.

7. "Maximum practical extent" means that reasonable efforts have been undertaken to comply with the regulations, that the costs of compliance clearly outweigh the potential benefits to the public or would unreasonably burden the proposed project, and reasonable steps have been undertaken to minimize any potential harm or adverse impacts resulting from noncompliance with the regulation.

8. In addition, all local regulatory provisions that relate to separations of certain types of land uses from others shall be interpreted to apply to land uses in adjacent jurisdictions.

9. For regional infrastructure projects, the proposing agency shall, upon receipt of any mitigation comments from the SNRPC, give consideration to the comments prior to application submittal. The proposing agency shall make written findings of the way in which the mitigation comments have been addressed.

(a) Approval Criteria

Projects of Regional Significance shall meet all of the following approval criteria, in addition to any approval criteria required for the project's respective application type(s):

The affected local government was notified of the proposed project by the Community Development and Services Director, and was afforded 15 calendar days to comment.

10. The proposed project does not impose undue negative impacts on any neighboring jurisdiction(s).

11. The applicant has mitigated any negative impacts, as identified by the affected local government, to the maximum practical extent.

12. Public hearing notices were sent to the owners of all affected properties, regardless of jurisdiction, in accordance with this Development Code and NRS Section 278.315(4).

13. School Impact Analysis

Community Development and Services staff may conduct an impact analysis for any proposed residential development requiring a Comprehensive Plan Amendment (CPA) to determine expected impacts on public, private, charter, and specialized school(s) and apply conditions accordingly.

B. APPLICATION REVIEW PROCESS

The common procedures in this section deal with the processing of an application, which occurs following the completion of the preliminary application procedures in Section 19.6.3. This section applies to all applications for development permits or approvals under this Code, unless otherwise stated.

1. Application Completeness

(a) An application will be accepted if it:

(1) Is submitted in the required form;

(2) Contains all necessary exhibits and supporting information (including maps, site drawings, analyses, etc.);

(3) Is accompanied by the appropriate fee(s);

(4) Includes the minimum number of copies required;

(5) Is submitted within review schedule timeframe; and

(6) Follows all required pre-application steps.

(b) Following acceptance, a determination of application completeness shall be made by the Community Development and Services Director following the staff review meeting. If an application is determined to be incomplete, the Community Development and Services Director shall provide written notice to the applicant along with an explanation of the application's deficiencies within nine calendar days of the application submittal deadline. No further processing of the application shall occur until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within 180 days, the application shall be considered withdrawn.

(c) If the application has been deemed complete and is heard at a public hearing where the Planning Commission or City Council have continued the application to allow for submittal of additional information, the application completeness date shall change to the date of the public meeting when the information is deemed acceptable.

2. Community Development and Services Director and Agency Review

In conducting required reviews, the Community Development and Services Director shall be authorized to distribute the application and other submittals to City departments and other agencies for the purpose of soliciting comments and ensuring that the proposal complies with all applicable standards and requirements. Comments received from reviewers shall be included in any required report.

3. Neighborhood Meetings

(a) General

The purpose of a neighborhood meeting is to provide an informal opportunity to inform the affected neighborhood(s) of the details of a proposed development and application, how the applicant intends to meet the standards contained in this Code, and to receive public suggestions, identify neighborhood concerns, and encourage dialogue at an early stage in the review process.

(b) Applicability

(1) Neighborhood Meeting Mandatory

Unless associated with a Redevelopment Area Review (Section 19.6.6.C, *Redevelopment Area Review*) or waived by the Community Development and Services Director, a neighborhood meeting is mandatory for any application subject to a mandatory concept plan review (Section 19.6.3.A.3, *Concept Plans*), as well as an amendment to the official zoning map and an amendment to the Comprehensive Plan. Neighborhood meetings are optional for any other applications under this Code.

(2) Neighborhood Meeting May Be Required

In addition to those instances when a meeting is mandatory under Subsection (1) above:

i. The Community Development and Services Director may require an applicant to conduct a neighborhood meeting prior to a public

hearing on an application if the Community Development and Services Director determines the application is likely to cause a significant land use, appearance, traffic, or other public facility impact on neighboring lands; or

ii. The Mayor or the Chair of the Planning Commission may direct an applicant to conduct a neighborhood meeting either prior to or during a public hearing on an application being reviewed by the board they chair, if it is determined the application could potentially have significant land use, appearance, traffic, or other public facility impacts on neighboring lands.

(c) Timing

At least one neighborhood meeting must be held at least three weeks prior to a public hearing, or as specified by the City.

(d) Procedure

The neighborhood meeting shall comply with the following procedures:

(1) Time and Place

The neighborhood meeting shall be held at a place that is generally accessible to neighbors that reside in close proximity to the land subject to the application, and shall be scheduled after 5:00 p.m. on a weekday.

(2) Notification

An applicant holding a neighborhood meeting shall provide mailed notice of the meeting to the same notification area that would be required for public hearings on the application pursuant to Section 19.6.3.B.4, *Public Notice*. Notification of the neighborhood meeting shall be provided by the applicant via first-class mail postmarked a minimum of ten days in advance of the meeting. Notification shall also be provided to staff at least ten calendar days prior to the meeting date.

(3) Notification Contents

Public notification of a neighborhood meeting shall include:

i. A vicinity map depicting the subject site,

ii. The purpose of the neighborhood meeting,

iii. The type of application proposed by the applicant,

iv. The date, time, and location of the meeting, and

v. Contact information for the applicant.

(4) Conduct of Meeting

At the neighborhood meeting, the applicant shall explain the development proposal and application, answer any questions, respond to concerns neighbors have about the application, and propose ways to resolve conflicts.

(5) Staff Attendance

City staff may attend the neighborhood meeting for the purpose of advising the attendees regarding applicable provisions of this Code, but shall not serve as facilitators or become involved in negotiations at the neighborhood meeting.

(6) Written Summary of Neighborhood Meeting

The applicant shall provide the Community Development and Services Director a written summary of the neighborhood meeting within five business days of its conclusion, along with a list of the notified parties and a signed affidavit indicating the notification was completed in accordance with the standards in this Code. The written summary shall include a summary of the issues related to the development proposal discussed, comments by those in attendance about the development proposal, and any other information the applicant deems appropriate. The written summary of the neighborhood meeting also shall be included with the application materials, and be made available to the public for inspection.

(7) Response to Summary

Any person in attendance at the neighborhood meeting may submit an additional written summary stating their understanding of the issues related to the development proposal discussed, comments by those in attendance about the development proposal, and any other information they deem appropriate. This written summary may include a response to the applicant's written summary of the meeting. All written summaries of the neighborhood meeting shall be included with the application materials, and be made available for public inspection.

4. Public Notice

(a) Content

All notices required under this Code shall comply with Nevada Revised Statutes (NRS) and shall:

(1) Indicate the time and place of the public hearing or action;

(2) Describe the property involved in the application by street address or by legal description and nearest cross-street;

(3) Describe the nature, scope, and purpose of the application or proposal being advertised;

(4) Indicate that interested parties may appear at the hearing and speak on the matter; and

(5) Indicate where additional information on the matter can be obtained.

(b) Written (Mailed) Notice

(1) When the provisions of this Code require that written or mailed notice be provided, the City shall be responsible for preparing and mailing the notice at least ten days in advance of the first public hearing. Unless otherwise specified in Table 19.6.3-1, written notice shall be provided to the applicant; the nearest 30 real property owners; all advisory boards

established in the affected area; and all registered property owner's associations, neighborhood associations, and appointed individuals serving as rural neighborhood representatives.

(2) In cases where a development requiring notice is proposed within or adjacent to an area subject to the RN overlay, the president of the applicable rural neighborhood organization shall be provided with mailed notice of the application.

(c) Posted Notice

When the provisions of this Code require that notice be posted, signs approved by the City shall be posted on the property that is the subject of the application in a manner that makes them clearly visible to neighboring residents and passers-by from each abutting street. Required signs shall be posted at least ten days before the first public hearing. Installers shall be required to sign an affidavit provided by the City stating that the signs were posted properly and provide a photograph showing each sign after installation. The photograph shall include a landmark that substantiates each sign's location. When the application pertains to a matter that does not affect a specific site (e.g., Comprehensive Plan text amendments), the notice may be posted in the City Hall lobby.

(d) Published (Newspaper) Notice

When the provisions of this Code require that notice be published, the City shall be responsible for preparing the notice and ensuring that it is published in a newspaper that has been selected by the City. The notice shall appear at least ten days before the public hearing.

(e) Summary Table of Required Notice and Timing

Unless otherwise expressly provided in the Nevada Revised Statutes, or this Code, public notice shall be provided in accordance with Table 19.6.3-1, *Public Notice Requirements*. Failure to receive notice in accordance with this section shall not invalidate the proceedings for which notice was required, nor shall failure to receive notice constitute a basis for legal action against the City. Bracketed numbers refer to notes at the bottom of the table.

TABLE 19.6.3-1: PUBLIC NOTICE REQUIREMENTS		
APPLICATION TYPE	**NOTICE REQUIRED {1}**	
	WRITTEN (MAILED) NOTICE RECIPIENTS	**POSTED NOTICE REQUIRED**
COMPREHENSIVE PLAN AND ZONING		
Comprehensive Plan Text Amendment	None required.	Yes {2}
Master Transportation Plan Amendment	None required. Where street name changes, notices are sent to affected parties.	Yes {2}
Comprehensive Plan Map Amendment	In addition to general recipients identified in 19.6.3.B.4.b above, all owners of real property and tenants within mobile home parks within 500 feet of the subject site and the nearest 30 real property owners. {3}	Yes {2}
Development Code Text Amendment	None required.	Yes
Rezoning	In addition to general recipients identified in 19.6.3.B.4.b above, all owners of real property and tenants within mobile home parks within 750 feet of the subject site and the nearest 30 real property owners. {3}	
LAND DIVISION		
Parcel Map	None required.	No
Boundary Line Adjustment		
Tentative Map		
Final Map		
ENTITLEMENTS		
Conditional Use Permit without alcohol sales or hazardous substances	In addition to general recipients identified in 19.6.3.B.4.b above, all owners of real property and tenants within mobile home parks within 500 feet of the subject site and the nearest 30 real property owners. Newspaper notification is not required. {3}	Yes
Conditional Use Permit with alcohol sales outside the CT district; Airports and Landing Strips	In addition to general recipients identified in 19.6.3.B.4.b above, all owners of real property and tenants within mobile home parks within 1,500 feet of the subject site, and the nearest 30 real property owners. Newspaper notification is not required.	Yes
Conditional Use Permit with hazardous substances, per NRS 459.3816	In addition to general recipients identified in 19.6.3.B.4.b above, all owners of real property and tenants within mobile home parks within 1,000 feet of the subject site, and the nearest 30 real property owners, as required in NRS 278.147. Public hearing notices are sent out 30 days prior to Planning Commission meeting.	Yes
Removal proceedings for nonconforming billboards	The applicant, real property owner, and owner of the nonconforming billboard.	No
Any application involving a nonrestricted gaming establishment or gaming enterprise overlay	In addition to general recipients identified in 19.6.3.B.4.b above, all owners of real property and tenants within mobile home parks within 5,000 feet of the subject site, and the nearest 30 real property owners.	Yes
Project of Regional Significance	In addition to general recipients identified in 19.6.3.B.4.b above, all owners of real property and tenants within mobile home parks within 750 feet of the subject site and the nearest 30 real property owners. {3}	Yes
Redevelopment Area Review	None required.	No
Waiver of Standards	In addition to general recipients identified in 19.6.3.B.4.b above, all owners of real property and tenants within mobile home parks within 500 feet of the subject site and the nearest 30 real property owners. Newspaper notification is not required.	Yes

TABLE 19.6.3-1: PUBLIC NOTICE REQUIREMENTS		
APPLICATION TYPE	**NOTICE REQUIRED {1}**	
	WRITTEN (MAILED) NOTICE RECIPIENTS	**POSTED NOTICE REQUIRED**
VACATION		
Type I Vacation	Owners abutting the proposed area to be vacated shall be notified via confirmation of delivery.	No
Creation of Landscape Maintenance District	General recipients identified in 19.6.3.B.4.b above.	Yes
MODIFICATIONS AND APPEALS		
Variance	In addition to general recipients identified in 19.6.3.B.4.b above, all owners of real property and tenants within mobile home parks within 500 feet of the subject site and the nearest 30 real property owners. Newspaper notification is not required. {3}	Yes
Appeal	Same notice as was provided for the decision being appealed.	

NOTES: {1} All application types listed in this table, except those listed under the Land Division application type and as otherwise noted, require the City to provide published notice in a newspaper selected by the City at least ten days prior to the public hearing.

{2} Posted notice shall be provided by the City in the City Hall lobby.

{3} When a project is located in or within 500 feet of a Rural Neighborhood (RN) Overlay, the notice requirement shall be expanded to 1,000 feet. The 1,000-foot notification shall only apply within the boundaries of the Rural Neighborhood (RN) overlay.

(f) Constructive Notice

Minor defects in notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. 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 hearing, and the location of the subject property shall be strictly construed. If questions arise at the hearing regarding the adequacy of notice, the decision-making body shall make a formal finding regarding whether there was substantial compliance with the notice requirements of this Development Code before proceeding with the hearing upon recommendation from staff.

5. Continuation of Public Hearings

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

(b) In the case of a public hearing before the Planning Commission, the Planning Commission will not grant more than two continuances for the same case, unless it is determined, upon good cause shown, the granting of additional continuances is warranted. "Good cause" includes, without limitation, the desire to revise plans or drawings, to engage in negotiations with

COMMENTARY

When the procedures of this chapter establish required time frames for action, items may not be continued beyond the required time frame without the consent of the applicant.

any person or governmental entity, to retain counsel, or circumstances relating to the matter that are beyond the control of the applicant.

(c) If a public hearing is continued more than three times or for more than 90 days, whichever is less, the public hearing shall be "re-noticed" in accordance with the original notice requirements for the subject application. Unless otherwise approved by the review or decision-making body at the time of the continuance, the applicant shall pay all costs associated with the re-notification.

6. Burden of Proof or Persuasion

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

7. City Council Call-Up of Development Applications

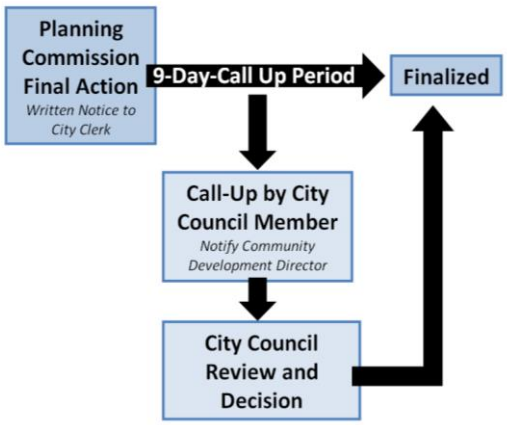
Whenever the procedures of this chapter give the Planning Commission decision-making or appeal authority on a development application or permit request, any member of the City Council shall be authorized to "call-up" the application for final action at the City Council. In order to call-up an application, a City Council member must notify the Community Development and Services Director within nine days of the date that the City Clerk received written notice of the Planning Commission's final action. In the event of City Council call-up, public notice shall be provided in accordance with the same procedures that applied to the Planning Commission's original action. In the event of call-up, the City shall be responsible for all costs associated with the re-notification.

8. Simultaneous Processing

(a) Whenever two or more forms of review and approval are required under this Code (e.g., a rezoning and a conditional use permit), applications for those development approvals may, at the option of the City, be processed simultaneously.

(b) The decision-making authority identified in Table 19.6.2-1, Summary Table of Development Review Procedures, shall have the authority to review and decide any application for which it is the designated decision-making authority. In cases where an application is submitted in conjunction with another application requiring approval by a separate, higher-level decision-making authority (e.g., the City Council), the higher-level decision-making authority shall be responsible for reviewing and deciding both applications.

Figure 19.6.3-A: Call-Up Process



9. Processing Cycles

The Community Development and Services Director shall issue timetables for reviewing each type of development application under this chapter. Timetables, which may be revised from time-to-time, may include:

(a) Dates of regular meetings of review bodies and decision-makers;

(b) Deadlines for receipt of a complete application for consideration of such application at a particular meeting; and

(c) Routing and scheduling of staff and agency reviews.

C. REVIEW AND DECISION

The provisions of this section shall apply to all applications for development permits or approvals under this Code, unless otherwise specified.

1. Conditions of Approval

Unless otherwise specified in this Code, the decision-maker may impose such conditions on the approval of the application as may be necessary to reduce or minimize any potential adverse impact upon other property in the area, or to carry out the general purpose and intent of the Comprehensive Plan and this Code. 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 nature and extent to the anticipated impacts of the proposed use or development. No conditions of approval shall be less restrictive than the requirements of this Code.

2. Lapse of Approval; Extensions of Time

(a) Unless otherwise provided in this chapter, an approved application shall expire if no activity approved under the permit occurs for six months and an extension is not granted.

(b) The lapse of approval time frames established by the procedures in this Chapter may be extended only when all of the following conditions exist:

(1) The provisions of this chapter must expressly allow the extension;

(2) An extension request must be filed prior to the applicable lapse-of-approval deadline;

(3) The extension request must be filed in a form and include all exhibits and fees established by the Community Development and Services Director; and

(4) Unless otherwise provided in this chapter, authority to grant extensions of time shall rest with the decision-making body that granted the original approval (the one being extended).

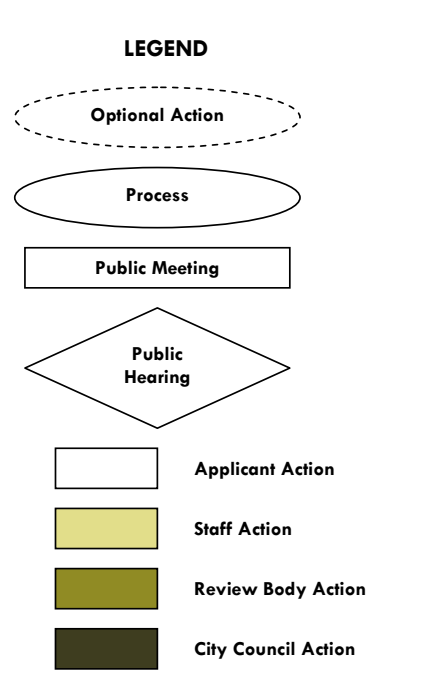


Figure 19.6.3-B: Procedural Flow Chart Legend

D. STRUCTURE OF INDIVIDUAL PROCEDURE SECTIONS

1. Contents

Each of the procedures listed in Sections 19.6.4 through 19.6.9 includes a standard set of information, including requirements for application

filing, preliminary actions undertaken by the City during the review process (e.g., public notice), the sequence of review, the approval criteria or standards for the type of application, and how appeals, amendments, or expiration are addressed (as appropriate).

2. Procedural Flow Charts

In addition to the basic information, each of the procedures includes a summary flow chart that illustrates the steps in the review process. Each flow chart includes common procedural elements that are identified by shape or color. For example, each optional action shown in a flow chart is surrounded by a dashed line; public hearings use the diamond shape; and City Council actions use the darkest color. Figure 19.6.3-B includes a legend that explains the various shapes and colors used in the procedural flow charts.

19.6.4. COMPREHENSIVE PLAN AND ZONING APPLICATIONS

A. COMPREHENSIVE PLAN AMENDMENTS

1. Concept Plan Review Required

Applications to amend the future land use map of the Comprehensive Plan shall submit a concept plan prior to application submittal, in accordance with Section 19.6.3.A.3, *Concept Plans*. Applications to amend the text of the Comprehensive Plan do not require concept plan review.

2. Neighborhood Meeting Required

Applicants to amend the future land use map of the Comprehensive Plan shall conduct a neighborhood meeting in accordance with Section 19.6.3.B.3, *Neighborhood Meetings*, following concept plan review. Applications to amend the text of the Comprehensive Plan do not require a neighborhood meeting.

3. Application Filing

Applications for an amendment to the Comprehensive Plan shall be submitted to the Community Development Director.

4. Traffic Impact Analysis Required

Unless waived by the Public Works Parks and Recreation Director, applications for an amendment to the Comprehensive Plan shall be accompanied by a Traffic Generation Impact Report. Each impact report shall compare the maximum potential traffic that may be generated by the existing land use with the traffic expected to be generated by the proposed land use in accordance with the site plan submittal. References and sources indicating where the traffic data was obtained shall be included with the Traffic Generation Impact Report, which shall be in a form that is specified by the Public Works Parks and Recreation Director.

5. Timing of Review

(a) Quarterly Review of Map Amendments

(1) Pursuant to NRS 278.210, the Planning Commission and City Council shall hear substantial future land use map amendment applications on a quarterly basis. The Community Development and Services Director shall make a determination as to whether a proposed amendment is substantial for purposes of this provision

(2) Applications may be filed with the Community Development and Services Department at any time before the specified deadline date, but will be held until the next Planning Commission meeting that has been designated for Comprehensive Plan amendment applications.

(3) After having heard the application, the Planning Commission or City Council may continue a Comprehensive Plan amendment to any of their subsequent meetings.

(4) City-initiated applications are not subject to the quarterly consideration requirement and may be considered on the normal processing cycle.

(b) Text Amendments

Text amendments to the Comprehensive Plan are not subject to the quarterly consideration requirement and may be considered on the normal processing cycle.

6. Public Hearing Notice

(a) Comprehensive Plan Text Amendments

Notice of the public hearing on a Comprehensive Plan text amendment shall be published and posted in accordance with the requirements of Section 19.6.3.B.4, Public Notice.

(b) Comprehensive Plan Map Amendments

Notice of the public hearing on a Comprehensive Plan map amendment shall be mailed, published, and posted in accordance with the requirements of Section 19.6.3.B.4, Public Notice.

7. Community Development and Services Director Review and Report

The Community Development and Services Director shall review each proposed Comprehensive Plan amendment in light of the approval criteria of this Section19.6.4.A.10, C*omprehensive Plan Amendment Approval Criteria*, and, as deemed necessary, distribute the application to other reviewers. In addition, pursuant to NRS 277, to the extent possible the Community Development and Services Director will inform state agencies that may be affected by the proposed amendment and solicit and consider comments from those state agencies. Based on the results of the reviews and the consideration of comments from affected state agencies, the Community Development and Services Director shall provide a report and recommendation to the Planning Commission.

8. Planning Commission Review and Recommendation

(a) The Planning Commission may continue a Comprehensive Plan amendment application, and all of its accompanying applications, to any future Planning Commission meeting. However, if a continuance is requested by the applicant, all applications shall be held in abeyance until the next quarterly meeting designated for Comprehensive Plan amendment applications.

(b) The Planning Commission shall hold at least one public hearing on the proposed Comprehensive Plan amendment and at the close of the public hearing make a recommendation to the City Council, based on the approval criteria of Section 19.6.4.A.10, Comprehensive Plan Amendment Approval Criteria.

(c) An affirmative vote of two-thirds of the total membership of the Planning Commission shall be required to approve a resolution recommending adoption of the Comprehensive Plan amendment. A two-thirds vote is a vote of at least two-thirds of the votes cast by persons legally entitled to vote, excluding abstentions, at a meeting at which a quorum is present.

(d) If a Comprehensive Plan amendment application is accompanied by other applications for the same development, the Comprehensive Plan amendment shall be acted upon before all other applications for that project.

(e) If the Comprehensive Plan amendment fails to receive an affirmative vote of two-thirds of the total membership or is recommended for denial by the Planning

Commission, all accompanying applications shall be acted on in accordance with Table 19.6.2-1, Summary Table of Development Review Procedures.

9. City Council Review and Decision

(a) After receiving the recommendation of the Planning Commission, the City Council shall hold at least one public hearing and, at the close of the public hearing, act to approve, approve with conditions, or deny the proposed amendment based on the approval criteria of Section 19.6.4.A.10, Comprehensive Plan Amendment Approval Criteria.

(b) No applicant-requested change in or addition to an amendment recommended for approval by the Planning Commission shall be made by the City Council until the proposed change or addition has been referred back to the Planning Commission for a new public hearing and recommendation. Failure of the Planning Commission to conduct a new public hearing and make a new recommendation within 40 days after the referral, or such longer period as may be designated by the City Council, shall be deemed to be approval of the proposed change or addition.

(c) If a Comprehensive Plan amendment recommended for denial by the Planning Commission is approved by the City Council, any applications that accompanied the Comprehensive Plan amendment at the Planning Commission shall be re-noticed and scheduled to be heard and acted upon at the next available Planning Commission meeting.

(d) If a Comprehensive Plan amendment is denied by the City Council, all applications that accompanied the Comprehensive Plan amendment are terminated.

(e) The City Council may continue a Comprehensive Plan amendment application, and all of its accompanying applications, to any future City Council meeting. However, if a continuance is requested by the applicant, the applications shall be held in abeyance until the next quarterly meeting designated for Comprehensive Plan amendment applications.

10. Comprehensive Plan Amendment Approval Criteria

(a) Comprehensive plan amendments may be approved by the City Council only following a determination that the proposed amendment is consistent with the overall purpose and intent of the Comprehensive Plan and that any one of the following criteria has been met:

(1) There was an error in the original Comprehensive Plan adoption;

(2) The City Council failed to take into account then-existing facts, projections, or trends that were reasonably foreseeable to exist in the future;

(3) Events, trends, or facts after adoption of the Comprehensive Plan have changed the City Council's original findings made upon plan adoption; and/or

(4) Events, trends, or facts after adoption of the Comprehensive Plan have changed the character or condition of an area so as to make the proposed amendment necessary.

(b) In addition to the above-listed criteria, any proposed amendment is subject to the following additional review standards:

(1) That the amendment is not in conflict with any portion of the goals and policies of the plan.

(2) That the amendment constitutes a substantial benefit to the City and is not solely for the good or benefit of a particular landowner or owners at a particular point in time.

(3) The extent to which the proposed amendment and other amendments in the general area are compatible with the land use goals of the plan and that they avoid creation of isolated uses that will cause incompatible community form and a burden on public services and facilities.

(4) That the development pattern contained in the existing plan does not provide adequate and appropriate optional sites for the use or change being proposed in the amendment.

(5) That the impact of the amendment, when considered cumulatively with other applications and development in the general area, will not adversely impact the City or a portion of the City by:

i. Significantly altering acceptable existing land use patterns;

ii. Having significant adverse impacts on public services and facilities that are needed to support the current land use and which cannot be mitigated to the maximum extent feasible;

iii. Adversely impacting environmentally sensitive areas or resources; or

iv. Adversely impacting existing uses because of increased traffic on existing systems.

(6) That site conditions, including but not limited to topography, utility corridors/easements, drainage patterns, noise, odors, or environmental contamination, would make development under the current plan designation inappropriate.

(c) In addition to the above-listed criteria, recommendations and decisions on any proposed comprehensive plan amendment that would result in any land use designation permitting multifamily residential development shall be based on consideration of all of the following, which must be addressed in the proposed amendment:

(1) Whether the site is within ½-mile of the following:

i. The elementary school for which the residence is zoned;

ii. An existing or planned city park;

iii. An existing grocery store as defined by Henderson Municipal Code 4.36.010 or farmer's market as defined by NRS 268.091 with daily produce sales;

iv. An existing or planned transit stop, as determined by the Regional Transportation Commission of Southern Nevada; and

v. An existing or planned shared-use path as defined by the Regional Bicycle & Pedestrian Plan for Southern Nevada;

(2) Whether the site is at least 500 feet from a limited-access freeway;

(3) Whether there is at least one job for every dwelling unit within a ½-mile radius of the project site;

(4) The balance of land uses within ½-mile of the project site;

(5) The site must comply with the traffic impact study recommendations. A traffic impact study is required for any increase to the proposed density for the most recently approved traffic impact study or if a traffic impact study has never been completed for the site;

(6) Whether the site is in Clark County School District school attendance zones that have excess capacity sufficient to accommodate the projected student yield of the development;

(7) The need for the use, based upon the characteristics within ½-mile of the project site, such as:

i. Residential Vacancy Rates;

ii. Residential Rental Rates;

iii. Commercial Vacancy Rates; and

iv. Commercial Rental Rates;

(8) The need for additional utilities and roads infrastructure and public safety services beyond those existing or planned, as determined by the City of Henderson Director of Utility Services, Traffic Engineer, Fire Chief, and Police Chief, and the developer's commitment to fund improvements necessitated by the proposed multifamily residential project;

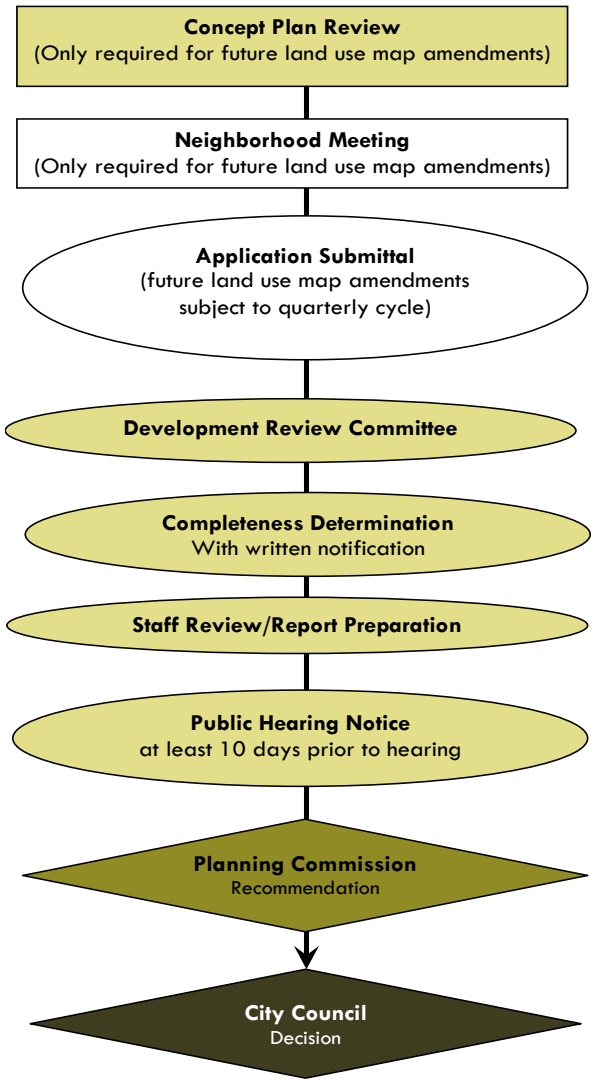
(9) Whether the site is located outside the Airport Environs (AE) overlay district; and

(10) Considerations of the application's furtherance of the City's Comprehensive Plan.

11. Appeals

Appeals of the City Council's decision on Comprehensive Plan amendments shall be made to the District Court of Clark County, as provided by law.

FIGURE 19.6.4-A: SUMMARY OF THE COMPREHENSIVE PLAN AMENDMENT PROCESS



B. DEVELOPMENT CODE TEXT AMENDMENTS

1. Application Filing

Applications for an amendment to the text of this Development Code may be filed by the City Council, Planning Commission, City Manager, City Attorney, or Community Development and Services Director.

2. Community Development and Services Director Review and Report

The Community Development and Services Director and the City Attorney shall review each proposed Development Code text amendment. Based on the results of those reviews, the Community Development and Services Director or the City Attorney shall provide a report to the City Council.

3. Public Meeting Notice

The City Clerk shall provide notice of the public meeting at which the proposed Development Code text amendment will be read to the City Council by title.

4. Referral to Committee

Consistent with Sections 2.090 and 2.100 of the Henderson City Charter, the proposed Development Code text amendment shall be read to the City Council by title and referred to a committee for consideration, after which the proposed Development Code text amendment shall be filed with the City Clerk for public distribution and publication.

5. City Council Review and Decision

After receiving the report of the Committee, the City Council shall act to approve, approve with conditions or deny the proposed Development Code amendment, based on the approval criteria of Section19.6.4.B.6, *Text Amendment Approval Criteria*.

6. Text Amendment Approval Criteria

Recommendations and decisions on Development Code text amendments shall be based on consideration of any or all of the following criteria:

(a) Whether the proposed amendment corrects an error or meets the challenge of some changing condition, trend, or fact;

(b) Whether the proposed amendment is consistent with the purpose and intent of the Development Code as stated in Section 19.1.4, Purpose and Intent; or

(c) Whether the proposed amendment will protect the health, safety, morals, or general welfare of the public.

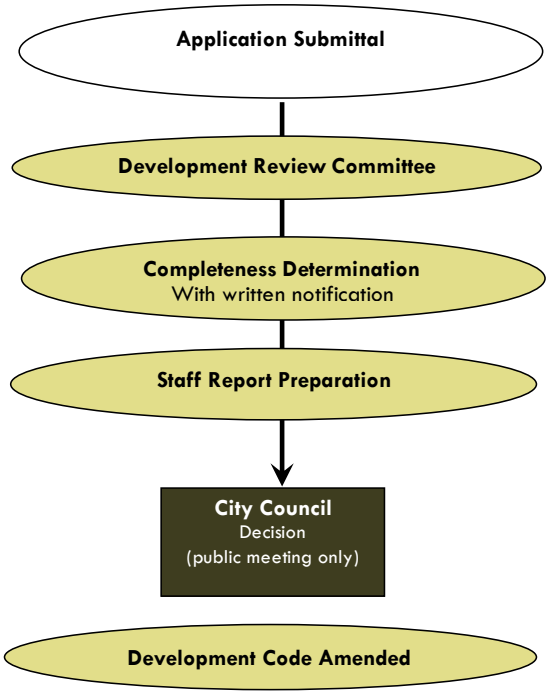


FIGURE 19.6.4-B: SUMMARY OF CODE TEXT

C. REZONINGS

This section includes the procedure for the review of applications for all amendments to the zoning map (rezonings), except for amendments to the Master Plan (MP) and Planned Unit Development (PUD) overlays, which are covered in subsection D below.

1. Neighborhood Meeting Required

Applications to amend the official zoning map may require a neighborhood meeting held in accordance with the procedures in Section 19.6.3.B.3, *Neighborhood Meetings*, after submittal of a formal application.

2. Application Filing

Applications for zoning map amendments shall be submitted to the Community Development and Services Director.

3. Public Hearing Notice

Notice of public hearings on zoning map amendments shall be published, mailed, and posted in accordance with Section 19.6.3.B.4, *Public Notice*.

4. Community Development and Services Director Review and Report

The Community Development and Services Director shall review each proposed zoning map amendment in light of the approval criteria of Section 19.6.4.C.7, *Map Amendment Approval Criteria*, and, as deemed necessary, distribute the application to other reviewers. Based on the results of those reviews, the Community Development and Services Director shall provide a report to the Planning Commission.

5. Planning Commission Review and Recommendation

The Planning Commission shall hold a public hearing on the proposed zoning map amendment and at the close of the public hearing make a recommendation to the City Council based on the approval criteria of Section 19.6.4.C.7, *Map Amendment Approval Criteria*. Approval may be recommended for a less intensive zoning classfication than requested by the applicant without re-notiifcation.

6. City Council Review and Decision

After receiving the recommendation of the Planning Commission, the City Council shall act to approve, approve with conditions, or deny the proposed zoning map amendment, based on the approval criteria of Section 19.6.4.C.7, *Map Amendment Approval Criteria*. Approval may be granted for a less intensive zoning classfication than requested by the applicant without re-notiifcation.

7. Map Amendment Approval Criteria

(a) Recommendations and decisions on zoning map amendments shall be based on consideration of all of the following criteria:

(1) Whether the proposed amendment corrects an error or meets the challenge of some changing condition, trend, or fact.

(2) Whether the proposed amendment is consistent with the Comprehensive Plan and the stated purposes of Section 19.1.4, Purpose and Intent.

(3) Whether the proposed amendment will protect the health, safety, morals, or general welfare of the public.

(4) Whether the City and other service providers will be able to provide sufficient public safety, transportation and utility facilities, and services to the subject property, while maintaining sufficient levels of service to existing development.

(5) Whether the proposed rezoning will have significant adverse impacts on the natural environment, including air, water, noise, stormwater management, wildlife, and vegetation.

(6) Whether the proposed amendment will have significant adverse impacts on other property in the vicinity of the subject property.

(7) The suitability of the subject property for the existing zoning classification and proposed zoning classification.

(8) The need for the proposed use at the proposed location.

(b) In addition to the above-listed criteria, any proposed amendment that would reduce the density or intensity of uses on property (i.e., result in a "down-zoning") is subject to additional approval criteria in accordance with NRS 278.260. These criteria apply if at least 20 percent of the property owners to whom notices were sent indicate opposition to the proposed amendment. These criteria require the governing body to:

(1) Consider separately the merits of each aspect of the proposed amendment to which any property owner(s) expressed opposition.

(2) Make a written finding that the public interest and necessity will be promoted by the approval of the proposed amendment.

(c) In addition to the criteria listed in subsection (a) above, any proposed zoning amendment that would result in the redevelopment or change in use of a golf course, park, open space or PS-zoned land, is subject to the following additional approval criteria which must be addressed in the proposed amendment. These criteria require the governing body to consider:

(1) Mitigation of impacts of the proposed land uses on schools, traffic, parks, emergency services, utility infrastructure, and any other potential impacts identified by the Director of Community Development and Services; and

(2) Provision of a compensating benefit for the loss of the larger, contiguous open space to the surrounding neighborhood as a result of the redevelopment or change in use; and

(3) The preservation of open space beyond what would be required under the requested zoning and in furtherance of the goals and objectives of the City's Comprehensive Plan with regard to the protection of open space; and

(4) Compliance with the closure plan required by Section 19.7.8.L.

(d) In addition to the criteria listed in Subsection (a) above, recommendations and decisions on any proposed zoning amendment to any district permitting multifamily residential development shall be based on consideration of all of the following, which must be addressed in the proposed amendment:

(1) Whether the site is within ½-mile of the following:

i. The elementary school for which the residence is zoned;

ii. An existing or planned park;

iii. An existing grocery store as defined by Henderson Municipal Code 4.36.010 or farmer's market as defined by NRS 268.091 with daily produce sales;

iv. An existing or planned transit stop, as determined by the Regional Transportation Commission of Southern Nevada; and

v. An existing or planned shared-use path as defined by the Regional Bicycle & Pedestrian Plan for Southern Nevada;

(2) Whether the site is at least 500 feet from a limited-access freeway;

(3) Whether there is at least one job for every dwelling unit within a ½-mile radius of the projected site;

(4) The balance of land uses within ½-mile of the project site;

(5) The site must comply with the traffic impact study recommendations. A traffic impact study is required for any increase to the density for the most recently approved traffic impact study or if a traffic impact study has never been completed for the site;

(6) Whether the site is in Clark County School District school attendance zones that have excess capacity sufficient to accommodate the projected student yield of the development;

(7) The need for the use, based upon the characteristics within ½-mile of the project site, such as:

i. Residential Vacancy Rates;

ii. Residential Rental Rates;

iii. Commercial Vacancy Rates; and

iv. Commercial Rental Rates;

(8) The need for additional utilities and roads infrastructure and public safety services beyond those existing or planned, as determined by the City of Henderson Director of Utility Services, Traffic Engineer, Fire Chief, and Police Chief, and the developer's commitment to fund improvements necessitated by the proposed multifamily residential project;

(9) Whether the site is located outside the Airport Environs (AE) overlay district; and

(10) Considerations of the application's furtherance of the City's Comprehensive Plan.

8. Appeals

Appeals of City Council decisions on zoning map amendments shall be made to the District Court for Clark County, as provided by law.

9. Successive Application

Following denial of a zoning map amendment request, no new application for the same or substantially the same amendment shall be accepted within one year of the date of denial, unless denial is made without prejudice.

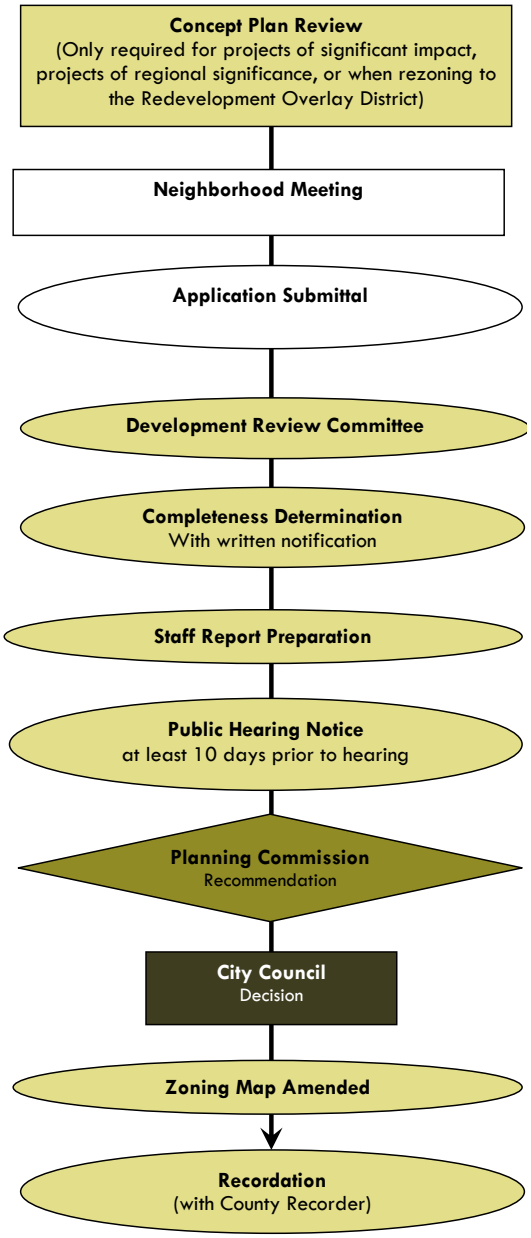


FIGURE 19.6.4-C: SUMMARY OF THE REZONING PROCESS

D. TO MP OR PUD OVERLAY

This section includes the procedure for the review of applications for amendments to the zoning map to apply either the Master Plan (MP) or Planned Unit Development (PUD) overlay.

1. Rezoning to MP Overlay

(a) Concept Plan Review

An applicant for rezoning to the MP overlay shall submit a concept plan prior to application submittal, in accordance with Section 19.6.3.A.3, *Concept Plans*.

(b) Neighborhood Meeting

Following review of a concept plan, an applicant for rezoning to the MP overlay shall conduct a neighborhood meeting in accordance with Section 19.6.3.B.3, *Neighborhood Meetings*.

(c) Application

(1) Master Plan Required for Rezoning to MP Overlay

i. An application for rezoning to the MP overlay shall include a MP prepared to the specifications of the City. Approval of a MP at the time of rezoning is required prior to development in the MP overlay. The MP represents a generalized land use/site plan for the area proposed to be included within a planned development. It is required as a means of allowing early review before detailed planning and engineering work are undertaken and before substantial expenses are incurred.

ii. A MP must cover all of the land area to be included in the planned development. The MP shall be accompanied by a terms and conditions statement, which is a textual description of all adopted conditions of approval, a description of how the planned development will meet or exceed the minimum standards of the Code, and the compensating benefits to be provided (if any).

(2) Filing

Applications for MP rezoning approval shall be submitted to the Community Development and Services Director.

(d) Public Hearing Notice

Notice of public hearings on the MP rezoning application shall be published, mailed, and posted in accordance with Section 19.6.3.B.4, *Public Notice*.

(e) Community Development and Services Director Review and Report

The Community Development and Services Director shall review each proposed MP rezoning in light of the applicable approval criteria of Section 19.6.4.D.1(h), *Approval Criteria*, and, as deemed necessary, distribute the application to other reviewers. Based on the results of those reviews, the Community Development and Services Director shall provide a report to the Planning Commission.

(f) Planning Commission Review and Recommendation

The Planning Commission shall hold a public hearing on the proposed MP rezoning and, within 60 days of the date of the public hearing, make a recommendation to the City Council, based on Section 19.6.4.D.1(h), *Approval Criteria*.

(g) City Council Review and Decision

After receiving the recommendation of the Planning Commission, the City Council shall act to approve, approve with conditions, or deny the proposed MP rezoning based on the approval criteria of Section 19.6.4.D.1(h), *Approval Criteria*.

(h) Approval Criteria

A MP rezoning may be approved only if the City Council finds that all of the following criteria have been met:

(1) The proposal is consistent with the Comprehensive Plan;

(2) The planned development addresses a unique situation, confers a substantial benefit to the City, or incorporates creative site design such that it achieves the purposes of this Code and represents an improvement in quality over what could have been accomplished through strict application of the otherwise applicable district or development standards. Such improvements in quality may include, but are not limited to: improvements in common open space provision and access; environmental protection; tree/vegetation preservation; efficient provision of streets, roads, and other utilities and services; or increased choice of living and housing environments;

(3) The planned development complies with the applicable standards of Section 19.4.4, *Master Plan Development Overlay*;

(4) The proposal mitigates any potential significant adverse impacts to the maximum practical extent;

(5) Sufficient public safety, transportation, and utility facilities and services are available to serve the subject property, while maintaining sufficient levels of service to existing development;

(6) The same development could not be accomplished through the use of other techniques, such as rezonings, variances, or administrative adjustments; and

(7) In addition to the above-listed criteria, any proposed master plan amendment that would result in the redevelopment or change in use of a golf course, park, open space or PS-zoned land, is subject to the following additional approval criteria which must be addressed in the proposed amendment. These criteria require the governing body to consider:

i. Mitigation of impacts of the proposed land uses on schools, traffic, parks, emergency services, utility infrastructure, and any other potential impact identified by the Director of Community Development and Services;

ii. Provision of a compensating benefit for the loss of the larger, contiguous open space to the surrounding neighborhood as a result of the redevelopment or change in use;

iii. The preservation of open space beyond what would be required under the requested master plan amendment and in furtherance of the goals and objectives of the City's Comprehensive Plan with regard to protection of open space; and

iv. Compliance with the closure plan required by Section 19.7.8.L.

(8) In addition to the criteria listed in Subsection (a) above, recommendations and decisions on any proposed MP rezoning or amendment that includes a request to allow multifamily residential development in a zoning district in which it is otherwise not permitted shall be based on consideration of all of the following, which must be addressed in the proposed amendment:

i. Whether the site is within ½-mile of the following:

1. The elementary school for which the residence is zoned;

2. An existing or planned park;

3. An existing grocery store as defined by Henderson Municipal Code 4.36.010 or farmer's market as defined by NRS 268.091 with daily produce sales;

4. An existing or planned transit stop, as determined by the Regional Transportation Commission of Southern Nevada; and

5. An existing or planned shared-use path as defined by the Regional Bicycle & Pedestrian Plan for Southern Nevada;

ii. Whether the site is at least 500 feet from a limited-access freeway;

iii. Whether there is at least one job for every dwelling unit within a ½-mile radius of the project site;

iv. The balance of land uses within ½-mile of the project site;

v. The site must comply with the traffic impact study recommendations. A traffic impact study is required for any increase to the density for the most recently approved traffic impact study or if a traffic impact study has never been completed for the site;

vi. Whether the site is in Clark County School District school attendance zones that have excess capacity sufficient to accommodate the projected student yield of the development;

vii. The need for the use, based upon the characteristics within ½-mile of the project site, such as:

1. Residential Vacancy Rates;

2. Residential Rental Rates;

3. Commercial Vacancy Rates; and

4. Commercial Rental Rates;

viii. The need for additional utilities and roads infrastructure and public safety services beyond those existing or planned, as determined by the City of Henderson Director of Utility Services, Traffic Engineer, Fire Chief, and Police Chief, and the developer's commitment to fund improvements necessitated by the proposed multifamily residential project;

ix. Whether the site is located outside the Airport Environs (AE) overlay district; and

x. Considerations of the application's furtherance of the City's Comprehensive Plan.

(i) Conditions of Approval

The following shall be standard conditions of the approval of all applications:

(1) The development standards in the applicant's submitted MP shall be deemed to be incorporated within the action of the City Council in its approval of the map amendment, except as modified in the specific terms of the approval. All future development within the boundaries of the MP overlay district shall comply with the terms of the approved MP.

(2) The requirements of the general zoning district(s) in which the property is located shall remain applicable within the overlay district except as modified within the approved MP and as may be further modified by the City Council in its approval.

(j) Appeals

Appeals shall be made in accordance with Section 19.6.9.E, *Appeals*.

(k) Recordation

The City shall record the adopting ordinance, MP, and the terms and conditions statement with the City. They shall be binding upon the landowners, their successors, and assigns, and shall constitute the development regulations for the land. Development of the land shall be limited to the uses, density, configuration, and all other elements and conditions set forth on the MP and in the terms and conditions statement. A copy of the recorded documents shall be provided to the City prior to issuance of a building permit.

(l) Amendments to an Approved Master Plan

(1) Any request for amendment to an approved MP that increases the number of dwelling units, increases the project's density, increases the number of building lots, decreases the amount of common open space, alters a road pattern, or requests new waivers of Code requirements shall be initiated and processed in the same manner as a new application.

(2) However, if the Community Development and Services Director determines that the requested changes are, in his or her discretion, minor and do not

include substantial alterations to the MP conditions of approval, and are consistent with the intent of the original approval, the Community Development and Services Director may approve the changes.

(3) The following are provided as illustrative examples of the types of amendments that the Community Development and Services Director may reasonably consider to be minor with respect to an approved MP:

i. Changes in the size of a particular use;

ii. Changes in the height of a proposed use;

iii. Changes in the housing mix or use-mix ratio; or

iv. Changes that do not result in a change in the character of the development, or the development's relationship with adjacent lands.

2. Rezoning to PUD Overlay

(a) Concept Plan Review

An applicant for rezoning to the PUD overlay shall submit a concept plan prior to application submittal, in accordance with Section 19.6.3.A.3, *Concept Plans*.

(b) Neighborhood Meeting

Following review of a concept plan, an applicant for rezoning to the PUD overlay shall conduct a neighborhood meeting in accordance with Section 19.6.3.B.3, *Neighborhood Meetings*.

(c) Application

(1) Plan required for Tentative Approval of Rezoning to PUD Overlay

An application for tentative approval of a PUD overlay must include a plan, as that term is defined in NRS 278A.060, which contains the following elements, as applicable:

i. The location and size of the site and the nature of the landowner's interest in the land proposed to be developed;

ii. The density of land use to be allocated to parts of the site to be developed;

iii. The location and size of any common open space and the form of organization proposed to own and maintain any common open space;

iv. The use and the approximate height, bulk and location of buildings and other structures;

v. The ratio of residential to nonresidential use;

vi. The feasibility of proposals for disposition of sanitary waste and storm water;

vii. The substance of covenants, grants, easements or other restrictions proposed to be imposed upon the use of the land, buildings, and

structures, including proposed easements or grants for public utilities;

viii. The provisions for parking of vehicles and the location and width of proposed streets and public ways;

ix. The required modifications in the site standards otherwise applicable to the subject property and

x. In the case of plans which call for development over a period of years, a schedule showing the proposed times within which applications for final approval of all sections of the PUD are intended to be filed.

PUDs must also meet the standards set forth in HMC 19.4.5, *Planned Unit Development Overlay*. A plan may also contain the minimum standards of design contained in NRS 278A.230 through NRS 278A.370, inclusive.

(2) Filing

Applications for PUD rezoning approval shall be submitted to the Community Development and Services Director.

(d) Public Hearing Notice

Notice of public hearings on the tentative approval of a PUD rezoning application shall be published, mailed, and posted in accordance with Section 19.6.3.B.4, *Public Notice*.

(e) Community Development and Services Director Review and Report

The Community Development and Services Director shall review each tentative PUD rezoning in light of the applicable approval criteria of Section 19.6.4.D.2.h, *Approval Criteria*, and, as deemed necessary, distribute the application to other reviewers. Based on the results of those reviews, the Community Development and Services Director shall provide a report to the Planning Commission.

(f) Planning Commission Review and Recommendation

The Planning Commission shall hold a public hearing on the tentative PUD rezoning and, within 60 days of the date of the public hearing, make a recommendation to the City Council, based on Section 19.6.4.D.2.h, *Approval Criteria*.

(g) City Council Review and Decision

After receiving the recommendation of the Planning Commission, the City Council shall act to approve, approve with conditions, or deny the tentative PUD rezoning based on the approval criteria of Section 19.6.4.D.2.h, *Approval Criteria*.

(h) Approval Criteria

A tentative PUD rezoning may be approved only if the City Council finds that all of the following criteria have been met, written findings of which must be set forth particularly in the minutes:

(1) The proposal is consistent with the Comprehensive Plan;

(2) The PUD addresses a unique situation, confers a substantial benefit to the City, or incorporates creative site design such that it achieves the purposes

of this Code and represents an improvement in quality over what could have been accomplished through strict application of the otherwise applicable district or development standards. Such improvements in quality may include, but are not limited to: improvements in common open space provision and access; environmental protection; tree/vegetation preservation; efficient provision of streets, roads, and other utilities and services; or increased choice of living and housing environments;

(3) The planned development complies with the applicable standards of Section 19.4.5, *Planned Unit Development Overlay*;

(4) The proposal mitigates any potential significant adverse impacts to the maximum practical extent;

(5) Sufficient public safety, transportation, and utility facilities and services are available to serve the subject property, while maintaining sufficient levels of service to existing development; and

(6) The same development could not be accomplished through the use of other techniques, such as rezonings, variances, or administrative adjustments;

(7) In what respects the plan is or is not consistent with the statement of objectives of a PUD;

(8) The extent to which the plan departs from zoning and subdivision regulations, otherwise applicable to the property, including but not limited to density, bulk, and use, and the reasons why these departures are or are not deemed to be in the public interest;

(9) The ratio of residential and nonresidential use in the PUD;

(10) The purpose, location and amount of the common open space in the PUD, the reliability of the proposals for maintenance and conservation of the common open space, and the adequacy or inadequacy of the amount and purpose of the common open space as related to the proposed density and type of residential development;

(11) The physical design of the plan and the manner in which the design does or does not make adequate provision for public services, provide adequate control over vehicular traffic, and further the amenities of light and air, recreation and visual enjoyment;

(12) The relationship, beneficial or adverse, of the proposed PUD to the neighborhood in which it is proposed to be established; and

(13) The case of a plan which proposes development over a period of years, the sufficiency of the terms and conditions intended to protect the interests of the public, residents and owners of the PUD in the integrity of the plan.

The minutes of record shall also set forth the time in which the application for final approval of the PUD must be filed and a copy must be mailed to the landowner.

(14) In addition to the above-listed criteria, any proposed PUD amendment that would result in the redevelopment or change in use of a golf course, park, open space or PS-zoned land, is subject to the following additional

approval criteria which must be addressed in the proposed amendment. These criteria require the governing body to consider:

i. Mitigation of impacts of the proposed land uses on schools, traffic, parks, emergency services, utility infrastructure, and any other potential impact identified by the Director of Community Development and Services;

ii. Provision of a compensating benefit for the loss of the larger, contiguous open space to the surrounding neighborhood as a result of the redevelopment or change in use;

iii. The preservation of open space beyond what would be required under the requested PUD amendment and in furtherance of the goals and objectives of the City's Comprehensive Plan with regard to protection of open space; and

iv. Compliance with the closure plan required by Section 19.7.8.L.

(i) Conditions of Approval

The following shall be standard conditions of approval on all tentative PUD rezoning applications:

(1) The development standards in the applicant's submitted PUD shall be deemed to be incorporated within the action of the City Council in its approval of the zoning map amendment, except as modified in the specific terms of the approval. All future development within the boundaries of the PUD overlay district shall comply with the terms of the finally approved PUD except as otherwise provided in this Section.

(2) The requirements of the general zoning district(s) in which the property is located shall remain applicable within the overlay district except as modified within the finally approved PUD and as may be further modified by the City Council in its approval.

(j) Final Approval of a Planned Unit Development

(1) Staff may approve a final PUD, and a public hearing on an application for final approval of a PUD is not required, if the plan is in substantial compliance with the plan given tentative approval, meaning it does not:

i. Vary the proposed gross residential density or intensity of use;

ii. Vary the proposed ratio of residential to nonresidential use;

iii. Involve a reduction of area set aside for common open space or the substantial relocation of such area;

iv. Substantially increase the floor area proposed for nonresidential use; and/or

v. Substantially increase the total ground areas covered by buildings or involve a substantial change in the height of buildings.

(2) A public hearing need not be held to consider modifications in the location and design of streets or facilities for water and for disposal of storm water and sanitary sewage on an application for final PUD.

(3) If the proposed final PUD plan is not in substantial compliance with the tentatively approved PUD plan, the procedures set forth in NRS 278A.550 shall apply.

(k) Appeals

Appeals shall be made in accordance with Section 19.6.9.E, *Appeals*.

(l) Recordation

The City shall record the adopting ordinance, finally approved and certified PUD, and the terms and conditions statement with the City. The City shall also record any amendments to the finally approved PUD. They shall be binding upon the landowners, their successors, and assigns, and shall constitute the development regulations for the land. Development of the land shall be limited to the uses, density, configuration, and all other elements and conditions set forth on the finally approved PUD and in the terms and conditions statement. A copy of the recorded documents shall be provided to the City prior to issuance of a building permit.

(m) Amendments to a Finally Approved Planned Unit Development

(1) Once finally approved, an amendment to a PUD modifying, removing or releasing any of the following requires a public hearing:

i. Plat of subdivision;

ii. Covenants relating to use of the land and buildings;

iii. Location or increased bulk of buildings and other structures;

iv. Ratio of residential to nonresidential uses; or

v. Intensity of use or density of development, private streets, ways and parking facilities, common open space (in terms of quantity and location) or public facilities.

(2) At the public hearing approving an amendment under subsection (1), the Planning Commission must determine that the modification, removal or release of the provisions of the plan:

i. Is consistent with the efficient development and preservation of the entire PUD;

ii. Does not adversely affect either the enjoyment of land abutting upon or across a street from the PUD or the public interest; and

iii. Is not granted solely to confer a private benefit upon any person.

(3) If a PUD was originally tied to an underlying tentative map or zoning application, any applicable amendment procedures for such application shall also be followed.

(4) An amendment to a finally approved PUD shall be recorded.

(n) Variances from a Finally Approved Planned Unit Development

The Community Development and Services Director may grant a deviation of less than 10 percent from requirements established within a PUD without conducting a hearing (i) with the written consent of the owner of any real property that would be affected by the deviation, and (ii) upon a finding that the deviation will not impair the purpose of the PUD or any regulations adopted by the governing body pursuant to NRS 278.250.

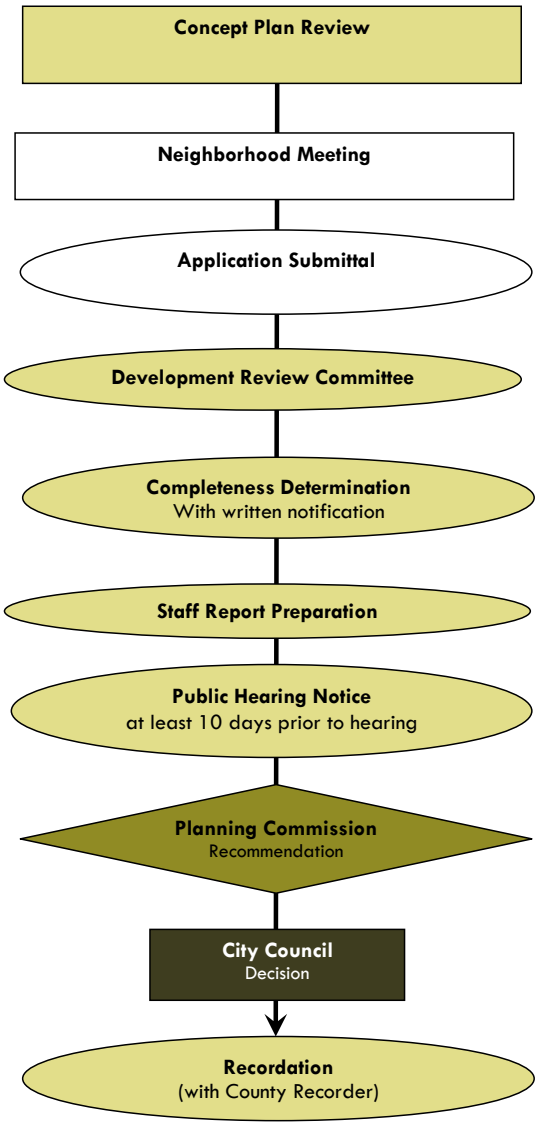


FIGURE 19.6.4-D: SUMMARY OF THE PROCESS FOR REZONINGS TO THE MP OR PUD OVERLAY

19.6.5. LAND DIVISION APPLICATIONS

A. PARCEL MAPS

1. Applicability

Parcel maps shall be required for all nonexempt subdivisions consisting of four or fewer lots.

2. Application Filing

Applications for parcel map approval shall be submitted to the Community Development and Services Director.

3. Community Development and Services Director Review and Decision

The Community Development and Services Director shall review each proposed parcel map and distribute the application to other City departments, including any agencies required for tentative maps by NRS 278.335. Based on the results of those reviews, the Community Development and Services Director shall, within 45 days of a complete application, act to approve, approve with conditions, or deny the application. Failure to take action within 45 days shall constitute approval of the application, unless the time frame is extended by mutual agreement.

4. Approval Criteria

No parcel map shall be approved unless the Community Development and Services Director and the City Surveyor determine that the map complies with all applicable standards of this Code and NRS Chapter 278.

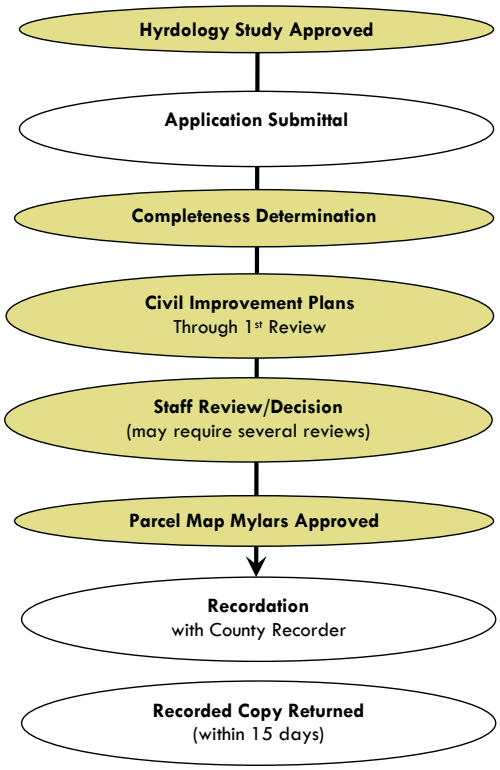
5. Recording; Lapse of Approval

The applicant shall be responsible for recording approved parcel maps with the County Recorder. If the approved parcel map is not recorded within one year of the date of approval of the parcel map, the parcel map shall lapse and be of no further effect.

6. Appeals

Appeals of the Community Development and Services Director's decision on parcel map applications shall be taken to the Planning Commission in accordance with the appeal procedures in Section 19.6.9.E, *Appeals*.

FIGURE 19.6.5-A: SUMMARY OF THE PARCEL MAP PROCESS



B. BOUNDARY LINE ADJUSTMENTS

1. Applicability

The procedures of this section shall apply to all boundary line adjustments.

2. Application Filing

Applications for boundary line adjustments shall be submitted to the Community Development and Services Director.

3. Community Development and Services Director Review and Decision

The Community Development and Services Director shall review each proposed boundary line adjustment and, within 30 days of a complete application, act to approve, approve with conditions, or deny the application based on the approval criteria of this subsection and NRS Chapter 278. Failure to take action within 30 days shall constitute approval of the application, unless the time frame is extended by mutual agreement.

4. Approval Criteria

No boundary line adjustment shall be approved unless the Community Development and Services Director and City Surveyor determine that the proposed adjustment complies with all of the following criteria:

(a) No additional lots shall be created;

(b) No parcel shall be created that is smaller than allowed by the underlying zoning district;

(c) No parcel shall be created that does not have paved road access; and

(d) The application shall comply with all other applicable requirements of this Development Code and all other applicable regulations.

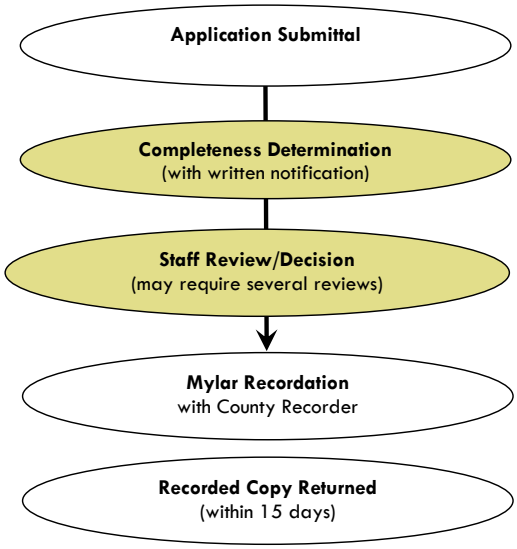
5. Recording; Lapse of Approval

The applicant shall be responsible for recording approved boundary line adjustments with the County Recorder. If the approved boundary line adjustment is not recorded within one year of the date of approval of the boundary line adjustment, the approval shall lapse and be of no further effect.

6. Appeals

Appeals of the Community Development and Services Director's decision on boundary line adjustments shall be taken to the Planning Commission in accordance with Section 19.6.9.E, *Appeals*.

FIGURE 19.6.5-B: SUMMARY OF THE BOUNDARY LINE ADJUSTMENT PROCESS



C. LARGE PARCEL DIVISIONS

Divisions of land that otherwise would require tentative and final map approval under subsections (D) and (E) of this section may be processed in accordance with the large parcel division procedures of NRS 278.471 to 278.4725 if each proposed lot is at least:

1. Forty acres in area, including roads and easements;

2. One sixteenth of a section, as described by a government land office.

D. TENTATIVE MAPS

1. Applicability

Tentative maps shall be required for all nonexempt subdivisions consisting of five or more lots. The property included within the boundaries of the proposed tentative map shall

coincide with platted lands or deed boundaries, or must be platted prior to the recordation of the first final map.

2. Application Filing

Applications for tentative maps shall be submitted to the Community Development and Services Director.

3. Community Development and Services Director Review and Report

The Community Development and Services Director shall review each proposed tentative map in light of the approval criteria of this subsection and distribute the application to other review agencies, including those required by NRS. Based on the results of those reviews, the Community Development and Services Director shall provide a report to the Planning Commission.

4. Planning Commission Review and Decision

After reviewing the tentative map and the Community Development and Serivces Director's report, the Planning Commission shall act to approve, approve with conditions, or deny the application, based on the approval criteria of this subsection. The Planning Commission shall take action on the tentative map within 45 days of receipt of a complete application.

5. Tentative Map Approval Criteria

Recommendations and decisions on tentative maps shall be based on consideration of all of the following criteria:

(a) Compliance with environmental and health laws and regulations concerning water and air pollution, solid waste disposal, water supply facilities, community or public sewage disposal, and, where applicable, individual systems for sewage disposal;

(b) Availability of water that meets applicable health standards and is sufficient for the reasonably foreseeable needs of the subdivision;

(c) Availability and accessibility of utilities;

(d) Availability and accessibility of public services such as schools, police and fire protection, transportation, recreation facilities, and parks;

(e) Consistency with the zoning district regulations;

(f) Conformity with the Master Transportation Plan;

(g) Effect of the proposed subdivision on existing public streets and the need for new streets or highways to serve the subdivision;

(h) Physical land characteristics, such as floodplain, slope, soil, and elevation differentials with abutting properties;

(i) Recommendations and comments of review bodies;

(j) Conformity to the Master Sewer and Water Utility Plan; and

(k) Compliance with this Code and all other applicable regulations.

6. Appeals

Appeals of the Planning Commission's decision on tentative maps shall be taken to the City Council in accordance with the appeal procedures of Section 19.6.9.E, *Appeals*.

7. Lapse of Approval

(a) An approved tentative map shall lapse and be of no further force and effect four years after the date of tentative map approval by the Planning Commission unless one of the following occurs:

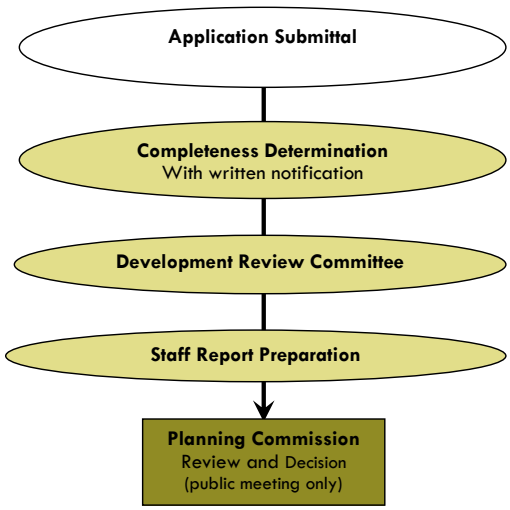
(1) A final map for the subdivision is recorded; or

(2) The first of a series of final maps covering a portion of the approved tentative map is recorded. Subsequently, the subdivider shall record a series of final maps, each covering a portion of the approved tentative map, within successive two-year periods after the date of recordation of the latest final map in the series.

(b) If the subdivider fails to record a final map for any portion of the tentative map within four years after the date of approval of the tentative map or within two years after the date of recordation of the most recently recorded final map, all proceedings concerning the subdivision are terminated.

(c) The Planning Commission may grant an extension of time of up to two years for the recordation of any final map in cases where the subdivider is presenting a series of successive final maps. If the subdivider is submitting final maps for a phased subdivision in a timely manner, no new requirements or conditions other than those imposed on each of the final maps in the series may be placed on the final map when an extension of time is granted unless the requirement is directly attributable to a change in applicable laws that affect the public health, safety or welfare.

FIGURE 19.6.5-C: SUMMARY OF THE TENTATIVE MAP PROCESS



E. FINAL MAPS

1. Application Filing

Applications for final maps shall be submitted to the Community Development and Services Director.

2. Community Development Director Review and Action

The Community Development and Services Director shall distribute the application to other City departments for their review and comment. After reviews are complete, the Community Development and Services Director shall act to approve, approve with conditions, or deny the application, based on whether the final map is consistent with the approved tentative map and whether it complies with this Code and all other applicable regulations.

3. Acceptance of Dedications

In approving a final map, the Community Development and Services Director and the City Surveyor shall be authorized to accept or reject offers of dedications and to require improvements of streets and easements.

4. Civil Drawings

After approval of the tentative map, but prior to submitting the final map or starting construction of any required improvements, civil drawings shall be submitted to the Public Works Parks and Recreation Director for review. Prior to submittal of the final map for City of Henderson signatures, bonds, fees, and civil drawings must be approved and the applicant shall pay all required fees.

5. Certificates and Acknowledgments

The certificates and acknowledgments required by the applicable provisions of NRS 278 and the City shall appear on a final map.

6. Recording; Lapse of Approval

The applicant shall be responsible for recording the approved final map with the County Recorder. If the approved final map is not recorded within one year of the date of approval of the final map, the approved final map shall lapse and be of no further effect.

7. Copy of Recorded Map to be Delivered to City

Within 15 days of recordation of the final map, the subdivider shall deliver an 11" by 17" conformed copy of the recorded final map, along with an application for street addressing, to the Community Development and Services Department for establishment of street addresses and storage in the City files.

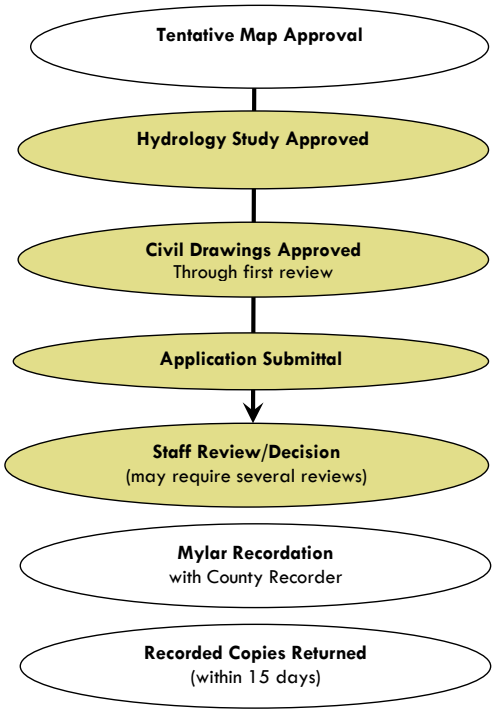
8. Effect of Approval

Following approval of the final map by the Community Development and Services Director, the subdivider may obtain a building permit for the subject property or transfer, sell, agree to sell, or negotiate to transfer or sell the subject lots.

9. Title to Dedicated Property

Title to property accepted for dedication passes when the final map is recorded. If offers of dedication are rejected at the time of final map approval, offers of dedication shall be deemed to remain open. The City Council may, by resolution at any later date and without further action by the subdivider, rescind its action of nonacceptance and accept and open the streets for public use, which acceptance shall be recorded in the office of the County Recorder and be so noted on the subdivision map by the Recorder.

FIGURE 19.6.5-D: SUMMARY OF THE FINAL MAP PROCESS



F. REVERSIONS TO ACREAGE

1. Applicability

The procedures of this subsection shall apply to all requests for reversions (to acreage) of any subdivision map, parcel map, map of large parcel division, or any part thereof.

2. Mandatory Conference

Prior to filing an application for a reversion to acreage, an applicant shall conduct a conference with the City Surveyor to ensure the City has full information on the proposal.

3. Application Filing

Applications for reversions to acreage shall be submitted to the Community Development and Services Director.

4. Community Development and Services Director Review and Decision

The Community Development and Services Director shall review each proposed reversion to acreage and distribute the application to other City departments. Based on the results

of those reviews, the Community Development and Services Director shall, within 45 days of a complete application, act to approve or deny the application, based on whether it complies with the standards of this Development Code and NRS Chapter 278.490.

5. Merger and Resubdivision Maps

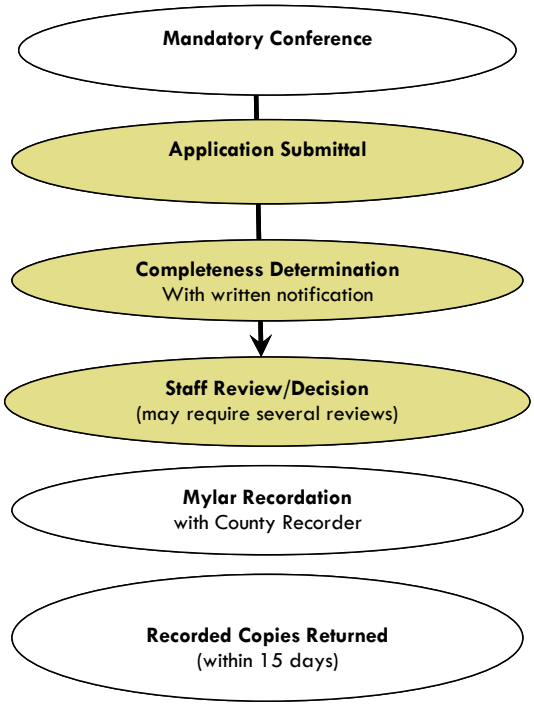
(a) In lieu of reverting pre-existing parcels to acreage in accordance with NRS 278.490, two or more contiguous parcels may be merged and resubdivided into new parcels or lots in accordance with the procedures of NRS 278.4925.

(b) Parcels or lots merged without reversion to acreage must be resubdivided and recorded on a final map, parcel map or map of division into large parcels, as appropriate, in accordance with NRS 278 and any applicable local ordinances.

6. Recordation

The applicant shall be responsible for recording the reversionary map with the County Recorder. If the approved reversionary map is not recorded within one year of the date of approval of the reversion to acreage, the approval shall lapse and be of no further effect.

FIGURE 19.6.5-E: SUMMARY OF THE REVERSION TO ACREAGE PROCESS



19.6.6. ENTITLEMENTS

A. CONDITIONAL USE PERMITS

1. Purpose/Description

The conditional use permit review and approval procedure provides a discretionary approval process for uses with unique or widely varying operating characteristics or unusual site development features. The procedure encourages public review and evaluation of a use's operating characteristics and site development features and is intended to ensure proposed conditional uses will not have a significant adverse impact on surrounding uses or on the community-at-large.

2. Application Filing

Applications for conditional use permits shall be submitted to the Community Development and Services Director.

3. Public Hearing Notice

Notice of public hearings on conditional use permits shall be posted and mailed in accordance with Section 19.6.3.B.4, *Public Notice*.

4. Community Development and Services Director Review and Report

The Community Development and Services Director shall review each proposed conditional use permit application in light of the approval criteria of Section 19.6.6.A.7, *Conditional Use Permit Approval Criteria*, and, as deemed necessary, distribute the application to other reviewers. Based on the results of those reviews, the Community Development and Services Director shall provide a report to the Planning Commission.

For medical marijuana establishments, the Community Development and Services Director shall provide a report to the City Council.

5. Planning Commission Review and Decision

(a) Within 50 days of receipt of a complete application, the Planning Commission shall hold a public hearing on the proposed conditional use permit. At the close of the public hearing, the Planning Commission shall act to approve, approve with conditions, or deny the application, based on the approval criteria of Section 19.6.6.A.7, *Conditional Use Permit Approval Criteria*. However, the Planning Commission's vote shall be a recommendation only when the application is being processed concurrently with an application that requires a final decision by the City Council.

(b) Design review applications that are being processed concurrently with conditional use permits shall be reviewed and approved concurrently by the Planning Commission.

6. City Council Review and Decision

Within 50 days of receipt of a complete application, the City Council shall hold a public hearing on the proposed marijuana establishment conditional use permit. At the close of the public hearing, the City Council shall act to approve, approve with conditions, or deny the application based on the approval criteria for Section 19.6.6.A.7, *Conditional Use Permit Approval Criteria*.

7. Conditional Use Permit Approval Criteria

(a) General Criteria

Conditional use permits may be approved by the Planning Commission only if they find that all of the following criteria are met:

(1) The proposed use complies with all applicable provisions of this Development Code unless otherwise expressly stated;

(2) The proposed use is compatible with adjacent uses in terms of scale, site design, and operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts);

(3) Any significant adverse impacts resulting from the use will be mitigated or offset to the maximum practical extent;

(4) The proposed use will not cause substantial diminution in value of other property in the neighborhood in which it is to be located;

(5) Public safety, transportation, and utility facilities and services will be available to serve the subject property while maintaining sufficient levels of service for existing development;

(6) Adequate assurances of continuing maintenance have been provided; and

(7) Any significant adverse impacts on the natural environment will be mitigated to the maximum practical extent.

(b) Liquor Licenses

Conditional use permits for liquor licenses may be approved by the Planning Commission only if they find that all of the "General" approval criteria of Section 19.6.6.A.7(a) and the following criteria have been met:

(1) The proposed use, its site design and conditions applied thereto, are intended to result in a facility where littering, loitering, and outdoor disturbance or excessive noise are not likely to occur.

(2) The proposed use will not adversely affect the welfare of the neighborhood residents because on-site consumption occurs in designated and properly designed areas indoors or outdoors and that, for package sales locations, adequate measures are proposed that on-site consumption is not likely to occur.

(3) The proposed project, based upon its physical positioning on the site and its architectural and design features, is compatible with the surrounding neighborhood. Considerations to ensure compatibility may include, but are not limited to, an evaluation of security, noise, light and glare, parking location and availability, and service area locations.

(c) Marijuana Establishments

(1) Conditional use permit applications for marijuana establishments shall not require Planning Commission approval and will proceed directly for final action at City Council. Conditional use permits for marijuana establishments shall be heard in conjunction with a City of Henderson business license application on the same City Council meeting.

(2) All marijuana establishments require approval of a conditional use permit. Conditional use permits for marijuana establishments are only valid at a given location for the operator who obtains the Nevada State Certificate for the facility. The conditional use permit approval shall expire and become null and void if the marijuana establishment operator loses or otherwise forfeits his or her State Certificate to operate that facility.

(3) Conditional use permits for marijuana establishments may only be submitted to Community Development and Services in conjunction with an application to the City of Henderson Business License Department. A conditional use permit application is not deemed complete and will not be scheduled for a public hearing until the City of Henderson Business License application has been reviewed and approved in accordance with Business License marijuana establishment suitability critieria. Once deemed approved, a conditional use permit will be scheduled for a public hearing meeting.

(4) Conditional use permits for marijuana establishments may be approved, only if they meet all of the "General" approval criteria of Section 19.6.6.A.7.(a) and the standards of 19.5.5.Y.

(5) Conditional use permits for medical marijuana establishments for cultivation, infusion and/or manufacturing and laboratories, approved prior to July 2017, shall be considered marijuana establishments. These approved sites, unless adding another establishment type to the existing site, shall not require any change to an approved conditional use permit.

8. Findings of Fact

The decision of the Planning Commission shall be accompanied by written findings of fact specifying the reasons for the decision.

9. Notice of Decision

Within five days of the Planning Commission's decision on a conditional use permit, the Community Development and Services Director shall mail notice of the decision to the applicant and all other parties who have made a written request for notification.

10. Appeals

Appeals of the Planning Commission's decision on conditional use permits shall be taken to the City Council in accordance with the appeal procedures of Section 19.6.9.E, *Appeals*.

Appeals of the City Council decision on conditional use permits shall be processed through the court system.

11. Effective Date

Decisions of the Planning Commission on a conditional use permit shall become effective ten days after the date that the City Clerk received written notice of the Planning Commission's approval of the conditional use permit, unless a valid appeal is filed in accordance with Section 19.6.9.E, *Appeals*.

Decisions of the City Council on a conditional use permit shall become effective upon posting of the decision with the City Clerk's office, unless a valid appeal is filed in accordance with Section 19.6.9.E, *Appeals*.

12. Lapse of Approval

(a) Except as otherwise provided herein, a conditional use permit shall lapse and have no further effect one year after its effective date or at such alternate time specified in the approval unless one or more of the following criteria has been met:

(1) A building permit, other than a grading permit, has been issued and construction diligently pursued toward completion of the building.

(2) A certificate of occupancy has been issued.

(3) The use is established and maintained.

(4) The conditional use permit is renewed.

(b) A conditional use permit shall lapse upon termination of a project or expiration of a building permit.

(c) Except as otherwise provided herein, a conditional use permit shall lapse if the rights granted by it are discontinued for 180 consecutive days or other period of time as specified by the City Council as part of a closure plan.

(d) A conditional use permit for a marijuana establishment shall not be effective until the licensee has received State of Nevada approval and approval of a business license from the City of Henderson.

(e) The process by which a conditional use may be extended is set forth below:

(1) The Community Development and Services Director may renew or extend the time of a conditional use permit when the applicant demonstrates good cause for the extension. Any such administrative extension granted shall not exceed one year in length, and no more than one extension may be granted by the Community Development and Services Director.

(2) Additional extensions of time may be approved by the Planning Commission, whose decision may be appealed to the City Council in accordance with the appeal procedures of Section 19.6.9.E, *Appeals*.

(f) The process by which a discontinued use may be extended is set forth below. Uses can only be extended at the location for which they were originally approved.

(1) Established Use

Any established use, defined as a use that was approved and opened for business, which is anticipated to be discontinued for more than 180 days, may be extended as part of an approved closure plan processed through the Community Development and Services Department, and which requires City Council action. The closure plan must specify the period of time for the extension of the established use. The closure plan does not extend a business license; any business license extension shall be processed through Business Licensing Department procedures.

(2) Non-Established Use

Any non-established use, defined as a use that was approved but never opened for business, may be extended through the extension of time process described in 19.6.6.A.12(e). The extension of time must specify the period of time for the extension of the non-established use. The closure plan does not extend a business license; any business license extension shall be processed through Business Licensing Department procedures.

13. Transferability

(a) The status of a conditional use permit is not affected by changes of tenancy, ownership, or management.

(b) A conditional use permit for a marijuana establishment shall not be transferable to another location.

(c) Any transferability is subject to approval of Title 4 licensing requirements.

14. Amendments

A request for changes in conditions of approval of a conditional use permit or a change to development plans that would affect a condition of approval shall be processed in the same manner as the original application. The Community Development and Services Director shall be authorized to approve minor modifications that have no potential for significant offsite impacts, provided that they do not involve any of the following:

(a) A five percent or greater increase in building height;

(b) A five percent or greater increase in floor area or building coverage when calculated on a total, aggregate project basis; or

(c) A five percent decrease in common open space.

15. Successive Applications

Following denial of a conditional use permit request, no new application for the same or substantially the same use shall be accepted within one year of the date of denial, unless denial is made without prejudice.

16. Complaints Regarding Approved Conditional Use Permits

Complaints regarding approved conditional use permits shall be processed in accordance with the provisions of Chapter 19.11: *Enforcement*.

17. Business Licenses

Approval of conditional use permits does not guarantee the issuance or approval of a business license. Licensure must be sought, reviewed, and approved separately in accordance with all applicable Title 4 regulations for said license.

Figure 19.6.6-A Summary of the Conditional Use Permit Process

Figure 19.6.6 Summary of a Conditional Use Permit - Marijuana

B. DESIGN REVIEW

This section sets out the required review and approval procedures for design review, which is a review procedure for determining compliance with the site planning, building design, and architectural standards of this Code.

1. Applicability

Unless waived by the Community Development and Services Director, or included in Section 19.6.6.B.2, *Exemptions*, all of the following shall be subject to review and approval under the design review procedures of this Code prior to the issuance of a building permit:

(a) Any building or non-building site improvement;

(b) Any alteration or addition with a building permit valuation of $5,000 or more that affects the external appearance, function, or external circulation of any permitted use in any nonresidential zoning district; and

(c) Any manufactured home or addition to a manufactured home.

COMMENTARY

When site plans are reviewed in conjunction with other forms of development approval, separate design review under the procedures of this section will not be required.

2. Exemptions

The following forms of development are exempt from the standards in this section:

(a) Any alteration or improvement not affecting the external appearance of a structure;

(b) Any alterations or additions to a legally-established, conforming, single-family, detached dwelling;

(c) Additions or alterations to any nonresidential or mixed-use building with a building permit valuation of less than $5,000; and

(d) Site plans associated with a master plan or PUD for which site plans and building design/architectural plans have been approved in accordance with the applicable review procedures of this Code.

The Community Development and Services Director or the building official may require the development to comply with the standards of this section in cases where the proposed alteration or improvement endangers the public health, safety, or general welfare.

3. Projects of Significant Impact and Developments Over 50,000 Square Feet

Projects of Significant Impact and new developments with 50,000 square feet or more shall undergo concept plan review in accordance with Section 19.6.3.A.3, *Concept Plans*, and a neighborhood meeting held in accordance with Section 19.6.3.B.3, *Neighborhood Meeting*.

4. Application Filing

Applications for design review shall be submitted to the Community Development and Services Director.

5. Review and Decision

(a) Design review applications that are not being processed concurrently with rezonings, planned unit developments, conditional use permits, or variances are eligible for administrative review and approval by the Community Development and Services Director.

(b) Design review applications that are being processed concurrently with rezonings, conditional use permits, or variances shall be reviewed and approved concurrently with the other required approvals, and shall be decided by the decision-making body deciding the rezoning, conditional use permit, or variance.

(c) Decision-making bodies shall review each application for design review and act to approve, approve with conditions, or deny the application based on whether the application complies with the standards of this Code or other approved design standards for the subject development, including the design and development standards in Chapter 19.7: Development and Design Standards.

(d) When the Community Development and Services Director is the decision-making body, action shall be taken within 30 days of receipt of a complete application.

6. Notice of Decision

Within five days of a decision on a design review application, the Community Development and Services Director shall mail notice of the decision to the applicant and all other parties who have made a written request for notification.

7. Appeals

Appeals of the Community Development and Services Director's decision shall be taken to the Planning Commission, and appeals of the Planning Commission's decision shall be taken to the City Council, in accordance with the appeal procedures of Section 19.6.9.E, *Appeals*.

8. Lapse of Approval

An approved design review application shall lapse and have no further effect 18 months after its effective date or at such alternate time specified in the approval unless:

(a) A building permit has been issued and construction diligently pursued;

(b) A certificate of occupancy has been issued;

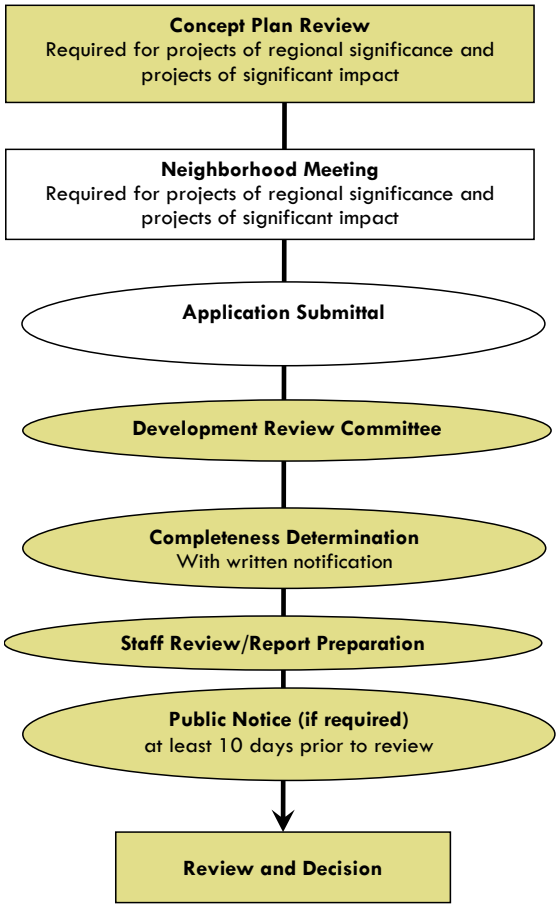
(c) The use is established; or

(d) The design review has been granted an extension of time.

9. Extensions of Time

The Community Development and Services Director may renew or extend the time of a design review when the applicant demonstrates good cause for the extension. Any such administrative extension granted shall not exceed 18 months in length. For design reviews originally approved by the Planning Commission or City Council, no more than one extension may be granted by the Community Development and Services Director. Additional extensions of time may be approved by the Planning Commission, whose decision may be appealed to the City Council in accordance with the appeal procedures of Section 19.6.9.E, *Appeals*.

FIGURE 19.6.6-B: SUMMARY OF THE SITE AND DESIGN REVIEW PROCESS



C. REDEVELOPMENT AREA REVIEW

1. Applicability

(a) Unless waived by the Community Development and Services Director, all development located within the boundaries of the Redevelopment Overlay (Section 19.4.7, Redevelopment Overlay) with a building permit valuation of $5,000 or more shall be subject to redevelopment area review prior to review of the application in accordance with the other procedures of this section.

(b) Redevelopment area review shall be the first step of the development process; it shall occur before other applicable review and approval procedures.

2. Application Filing

Any application for development within any Redevelopment Overlay boundary that meets the applicability standards of this section must be reviewed to determine whether the project, as proposed, complies with the adopted Redevelopment Plan. Review of a concept plan, prepared in accordance with Section 19.6.3.A.3, *Concept Plans*, shall be the method for determining compliance with the applicable Redevelopment Plan. Neighborhood meetings shall not be required for redevelopment area review applications.

3. Review and Decision

The Community Development and Services Director shall review each concept plan application for proposed development within any Redevelopment Overlay boundary and make a determination as to whether the project, as proposed, complies with the adopted Redevelopment Plan. In determining whether the project, as proposed, complies with the Redevelopment Plan, the Community Development and Services Director may seek the advice of the Redevelopment Agency. The Community Development and Services Director shall take action on the application within ten days of receipt of a complete application.

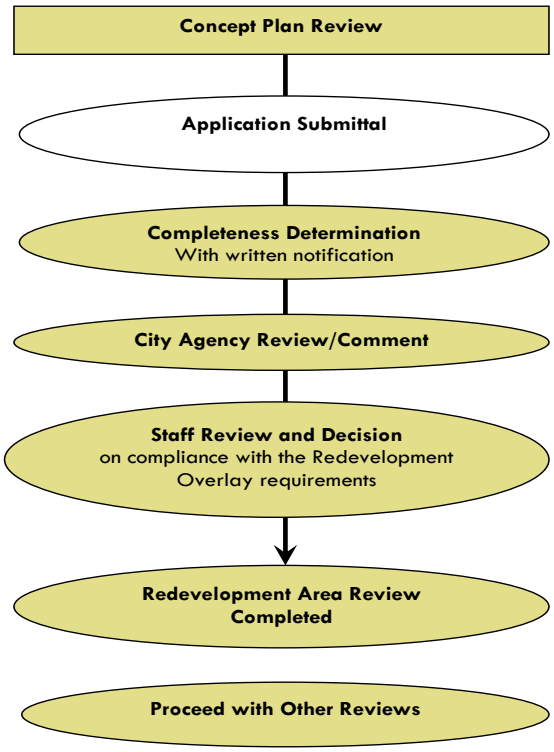
4. Appeals

Appeals of the Community Development and Services Director's decision shall be taken to the Redevelopment Agency.

5. Effect of Approval

Once an application for redevelopment area review is approved, the subject proposal shall be processed in accordance with all other applicable review procedures of this chapter.

FIGURE 19.6.6-C: SUMMARY OF REDEVELOPMENT AREA REVIEW PROCESS



D. TEMPORARY USE PERMITS

1. Application Filing

Applications for a temporary use permit shall be submitted to the Community Development and Services Director.

2. Review and Decision

(a) The Community Development and Services Director shall review each application for a temporary use permit and act to approve, approve with conditions, or deny the application based on the approval criteria of Section 19.6.6.D.4, Temporary Use Permit Approval Criteria. The Community Development and Services Director shall take final action on the application within ten days of receipt of a complete application.

(b) Temporary use permit applications seeking approval for a temporary use expected to remain in place for more than 30 calendar days or other time limit as specified for the specific temporary use as listed in 19.5.8 shall also be required to obtain a conditional use permit (Section 19.6.6.A).

3. Conditions of Approval

In approving a temporary use permit, the Community Development and Services Director (or, upon appeal, the Planning Commission) may impose conditions, stipulations, or limitations as are deemed necessary to ensure that the activity will be consistent with this section and the proposed temporary use. Such conditions may include, but are not limited to the following:

(a) Provision for temporary parking facilities, including vehicle ingress and egress;

(b) Measures to prevent or reduce nuisance factors such as glare, excessive illumination, noise, vibration, smoke, dust, dirt, odors, gases, and heat;

(c) Regulation of placement, height, size, and location of structures, facilities, landscaping and equipment, including provision for buffering and separation;

(d) Provision for sanitary facilities and for waste collection and disposal;

(e) Measures to promote safety and security;

(f) Regulation of signs and other attention-gaining devices;

(g) Regulation of operating hours and duration of the temporary commercial use;

(h) Regulation of the hours and duration of set-up and dismantling activities;

(i) Compliance with applicable provisions of the Henderson Municipal Code (HMC);

(j) Any other conditions that will ensure the operation of the proposed temporary use is conducted in an orderly, efficient manner and in accordance with the intent and purpose of this Code.

4. Temporary Use Permit Approval Criteria

Temporary use permits may be approved by the Community Development and Services Director only upon a finding that all of the following criteria have been met:

(a) The proposed temporary use will be located, operated, and maintained in a manner consistent with the policies of the Comprehensive Plan and the provisions of this Code;

(b) Approval of the application will not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare; and

(c) The proposed temporary use complies with all applicable standards of this Code unless otherwise expressly stated.

5. Effective Date

An approved temporary use permit shall be effective on the date of its approval.

6. Cleanup of Temporary Site

The holder of a temporary use permit shall be responsible for leaving the property free of debris, litter, or other evidence of the temporary use immediately upon completion or removal of the use. If the holder of the temporary use permit is not the record owner of the property, the holder and the property owner(s) are jointly and severally responsible for compliance with this Subsection 6.

7. Time Limits

Temporary use permits shall be valid for a specified period of time, not to exceed 30 days. Any temporary uses requested for periods of time exceeding 30 days or other time limit as specificed for the specific temporary use as listed in Section 19.5.8 shall obtain a conditional use permit in accordance with Section 19.6.6.A, *Conditional Use Permit*.

8. Appeals

Appeals of the Community Development and Services Director's decision to deny a temporary use permit shall be taken to the Planning Commission in accordance with the Section 19.6.9.E, *Appeals*.

9. Lapse of Approval

A temporary use permit shall lapse if not used within the dates approved.

10. Complaints Regarding Approved Temporary Use Permits

Complaints regarding approved temporary use permits shall be processed in accordance with the provisions in Chapter 19.11: *Enforcement*.

11. Revocation

A temporary use permit may be revoked or modified by the Community Development and Services Director, upon notice to the permit holder, if the Director finds that:

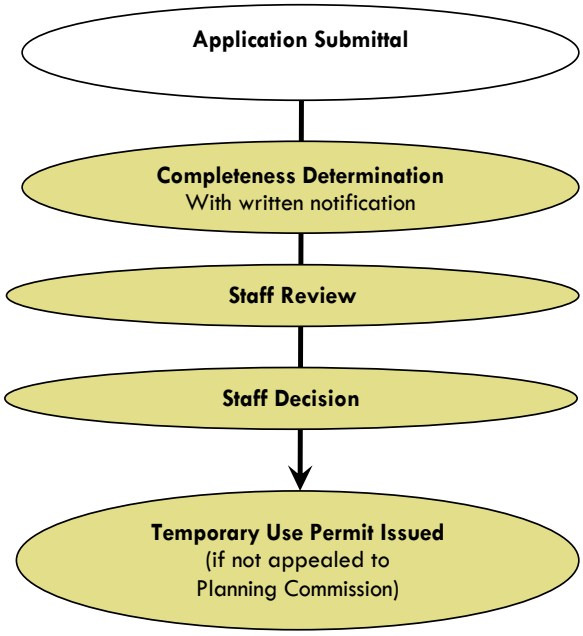
(a) The permit was obtained by misrepresentation or fraud;

(b) The activity is not in compliance with the permit or any condition of approval;

(c) The use to be allowed by means of the permit is conducted in violation of any applicable statute, ordinance, or regulation; or

(d) The permit is being employed to circumvent the limitations of this Code.

FIGURE 19.6.6-D: SUMMARY OF THE TEMPORARY USE PERMIT PROCESS



19.6.7. MASTER SIGN PLANS

A. APPLICABILITY

A master sign plan is required for each of the following:

1. Non-restricted or limited gaming establishments.

2. Any nonresidential development with a cumulative gross floor area of 50,000 square feet or more.

3. Any development with a cumulative gross site area of ten acres or more.

4. Any development whose signage requires, by Planning Commission or City Council action, coordination with its surrounding area or coordination with an approved site and design review plan.

5. Any other development or circumstance expressly subject to a master sign plan.

6. Proposals seeking modifications or reductions to applicable sign regulations require Planning Commission approval per Section 19.8.11.H.

7. Any residential development seeking signage that exceeds the requirements of 19.8.6.C.

B. APPLICATION FILING

Applications for master sign plans shall be submitted to the Community Development and Services Director.

C. CONTENTS OF MASTER SIGN PLANS

Master sign plans must indicate the number, location, materials, colors, dimensions, and the cone of visibility of all freestanding and wall signs in the development. The master sign plan must also

identify the types of signs proposed and any other information necessary to determine whether the proposed signs comply with all applicable sign regulations of this chapter.

D. DESIGN

Master sign plans must describe and illustrate a consistent pattern of signage for the development, such as:

1. Common colors on the background or text;

2. Common lettering style;

3. Common size (e.g., a height or wall location common to each sign);

4. Common materials; or

5. Common architecture/theme for freestanding signs.

E. SIGN STRUCTURE

All sign cabinets, trim caps, returns, and all sign supports such as poles and braces must be of a common design and color.

F. COMMUNITY DEVELOPMENT AND SERVICES DIRECTOR REVIEW AND ACTION

The Community Development and Services Director shall review each application for a master sign plan and, within 50 days of receipt of a complete application, act to approve, approve with conditions, or deny the application based on the approval criteria of Section 19.6.7.H, *Master Sign Plan Approval Criteria*.

G. PLANNING COMMISSION REVIEW AND ACTION

Within 50 days of receipt of a complete application, the Planning Commission shall hold a public hearing on the proposed master sign plan request that is requesting exceptions or modifications. At the close of the public hearing, the Planning Commission shall act to approve, approve with conditions, or deny the application based on Section 19.6.7.H, *Master Sign Plan Approval Criteria*.

H. MASTER SIGN PLAN APPROVAL CRITERIA

The master sign plan shall be approved if implementation of the master sign plan will meet all of the following criteria:

1. Provide signage more compatible with the surrounding development than strict compliance with this Development Code;

2. Result in architecture and graphics of a scale appropriate for the development and surrounding neighborhood;

3. Provide signage consistent with the architecture and site plan characteristics of the proposed project;

4. Be materially beneficial in achieving the goals and objectives of the Comprehensive Plan that relate to community design and aesthetics;

5. Be materially beneficial in achieving the purpose statement located in 19.8.1; and

6. Result in a reduction in the number and area of perimeter freestanding signs associated with the project as compared to strict compliance with this Development Code.

I. APPEALS

Appeals of the Community Development and Services Director's decision on a master sign plan shall be taken to the Planning Commission in accordance with Section 19.6.9.E, *Appeals*.

J. AMENDMENTS AND CHANGES

Amendments to an approved master sign plan may be authorized by the Community Development and Services Director. Except for message changes, no sign included in a master sign plan shall be altered except as prescribed in its approved master sign plan. Changes other than message changes shall require amendment to the approved master sign plan.

FIGURE 19.6.7-A: SUMMARY OF MASTER SIGN REVIEW PROCESS

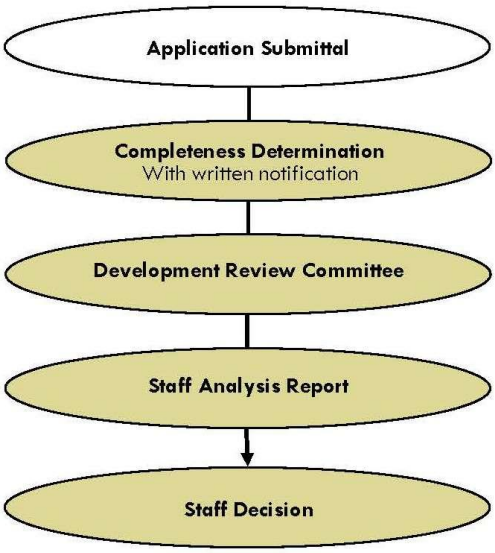
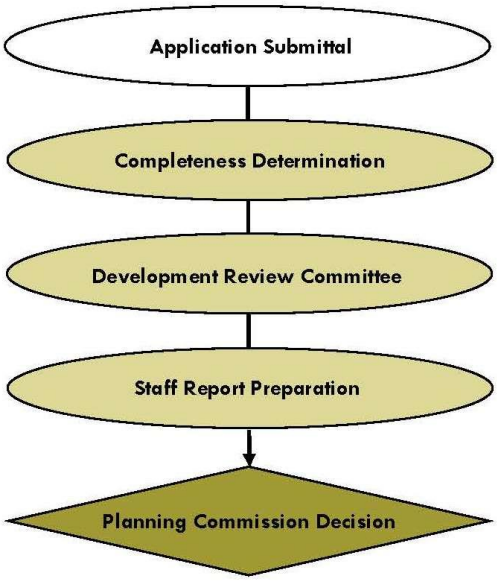


FIGURE 19.6.7-B: SUMMARY OF MASTER SIGN PLAN WITH EXCEPTION OR MODIFICATION REVIEW PROCESS



19.6.8. VACATIONS

A. TYPE I VACATIONS

The Type I vacation procedures of this subsection shall apply to all requests to vacate or abandon any public (City) street, any City of Henderson easement other than standalone Type II, or the City's interest in any easement owned by agencies other than the City. Requests to vacate only municipal utility easements shall be processed in accordance with Section 19.6.8.B, *Type II Vacations*.

1. Application Filing

Applications for Type I vacations shall be submitted to the City Surveyor.

2. Public Hearing Notice

Notice of public hearings on Type I vacations shall be published in accordance with the requirements of Section 19.6.3.B.4, *Public Notice*. Additionally, all owners of property abutting the proposed area to be vacated shall be notified by mail pursuant to a method that provides confirmation of delivery per NRS 278.480.4(a). Notice shall be provided not less than ten days before and not more than 40 days before the scheduled public hearing.

3. Community Development and Services Director Review and Report

The Community Development and Services Director shall review each proposed Type I vacation and distribute the application to other review agencies. Based on the results of those reviews, the Community Development and Services Director shall provide a report to the Planning Commission.

4. Planning Commission Review and Recommendation

After reviewing the Type I vacation application and the Community Development and Services Director's report, the Planning Commission shall hold a public hearing on the application and, at the conclusion of the hearing, act to recommend that the City Council approve, approve with conditions, or deny the application. If, upon public hearing, the Planning Commission is satisfied that the public will not be materially injured by the proposed vacation, it shall recommend the application be approved. The Planning Commission may make the recommendation conditional such that the vacation becomes effective only upon the fulfillment of the conditions prescribed. The Planning Commission's recommendation shall be based on whether the application complies with the standards of this Development Code and NRS Chapter 278.

5. City Council Review and Decision

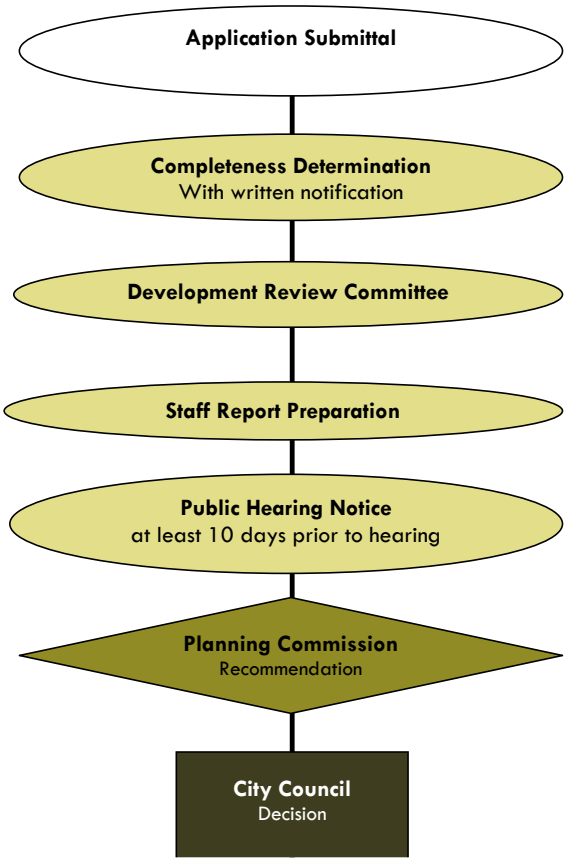
After reviewing the Type I vacation application, the City Council shall act to approve, approve with conditions, or deny the application based on whether it complies with the standards of this Development Code and NRS Chapter 278. If the City Council is satisfied that the public will not be materially injured by the proposed vacation, it shall approve the application. The City Council may make the order conditional such that the vacation becomes effective only upon the fulfillment of the conditions prescribed.

6. Recordation

The applicant shall be responsible for preparing all vacation documents except the vacation order. The City shall prepare the vacation order and record all documents with the County Recorder at such time as all conditions of the order, if any, have been fulfilled.

If the approved vacation order is not recorded within one year of the date of approval, the approval shall lapse and be of no further effect unless a one-time administrative extension of time has been granted by the Public Works Parks and Recreation Director on a form established by the Public Works Parks and Recreation Director.

FIGURE 19.6.8-A: SUMMARY OF TYPE I VACATION PROCESS



B. TYPE II (MUNICIPAL UTILITY EASEMENT) VACATIONS

The Type II vacation procedures of this subsection shall apply to all requests to vacate municipal (City) utility easements. The procedures of this subsection shall not apply to requests to vacate public streets, non-municipal utility easements, or the City's interest in any utility controlled by agencies other than the City such as the easements associated with a Type I vacation.

1. Application Filing

Applications for municipal utility easement vacations shall be submitted to the City Surveyor.

2. Public Works Parks and Recreation Director Review and Report

The Public Works Parks and Recreation Director shall review each proposed municipal utility easement vacation and distribute the application to other review agencies. Based on the results of those reviews, the Public Works Parks and Recreation Director shall provide a report to the City Council.

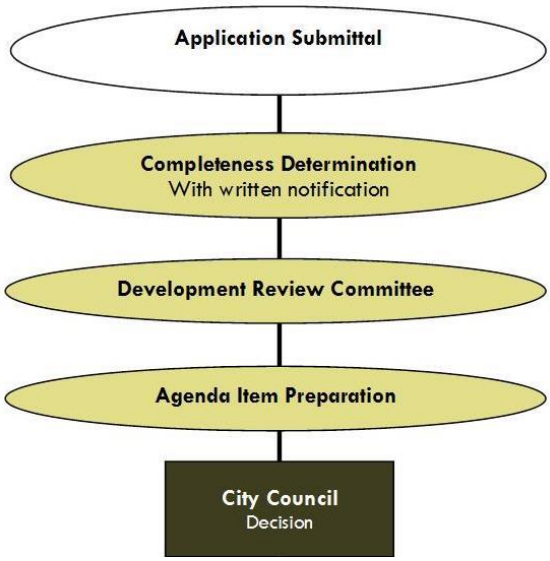
3. City Council Review and Decision

After reviewing the application for a municipal utility easement vacation and the Public Works Parks and Recreation Director's report, the City Council shall act to approve, approve with conditions, or deny the application based on whether it complies with the standards of this Development Code and NRS Chapter 278. If the City Council is satisfied the public will not be materially injured by the proposed vacation, it shall approve the application. The City Council may make the order conditional such that the vacation becomes effective only upon the fulfillment of the conditions prescribed.

4. Recordation

The applicant shall be responsible for preparing all municipal utility easement vacation documents except the municipal utility easement vacation order. The City shall prepare the municipal utility easement vacation order and record all documents with the County Recorder at such time as all conditions of the order, if any, have been fulfilled. If the approved municipal utility easement vacation order is not recorded within one year of the date of approval of the municipal utility easement vacation, the approval shall lapse and be of no further effect unless a one-time administrative extension of time has been granted by the Public Works Parks and Recreation Director on a form established by the Public Works Parks and Recreation Director.

FIGURE 19.6.8-B: SUMMARY OF TYPE II VACATION PROCESS



19.6.9. MODIFICATIONS AND APPEALS

The development review procedures in this section are intended to allow relief and flexibility in the development review process. Generally, it is the intent of the City to allow significant reductions or deviations from the minimum standards of this Code only in exchange for a higher level of quality development and compensating benefits.

A. SUMMARY TABLE

Table 19.6.9-1, *Summary of Flexibility Options*, summarizes the principal tools that are available to provide relief from the strict application of the standards in this Code. The table includes procedures that allow reduction, waiver, adjustment, or exemption from certain Code standards, and any applicable limitations.

TABLE 19.6.9-1: SUMMARY OF FLEXIBILITY OPTIONS

PROCEDURE	DECISION-MAKING BODY	DESCRIPTION	LIMITATIONS	COMPEN-SATING BENEFITS REQUIRED?
Administrative Adjustment (19.6.9.B)	Community Dev. And Services Director	Allows minor deviations from certain standards, as specified in Table 19.6.9-2.	Only specified adjustments allowed; See approval criteria in Section 19.6.9.B.5.	No
Variances (19.6.9.C)	Planning Commission	Allows deviation from any development standard (except allowable use).	Hardship must be demonstrated. See approval criteria in Section 19.6.9.C.6.	No
Waivers (19.6.9.D)	Planning Commission or City Council per Section 19.6.9.D.4	Allows new development to depart from required development or design standards through the Waiver of Standards or PUD or MP processes.	Does not exempt requirements; allows an alternative form of compliance equal to or better than standard.	Yes
Development Agreements (19.6.10.A)	City Council	Allows departure from Development Code and HMC.	Subject to approval by City Council.	N/A

B. ADMINISTRATIVE ADJUSTMENTS

1. Purpose

This section sets forth the required review and approval procedures for administrative adjustments, which are minor deviations from otherwise applicable standards that may be approved by the Community Development and Services Director when the small size of the modification requested, and the unlikelihood of any adverse effects on nearby properties or the neighborhood, make it unnecessary to complete a formal variance process.

2. Applicability

The Community Development and Services Director is authorized to approve administrative adjustments as provided in Table 19.6.9-2.

TABLE 19.6.9-2: ALLOWABLE ADMINISTRATIVE ADJUSTMENTS		
STANDARD	ALLOWABLE MODIFICATION (%)	
	WITHIN DOWNTOWN DISTRICTS	ALL OTHER DISTRICTS
Any zoning district setback, lot size, lot width, or building coverage	20	10
Front setback for mansion apartment or single-family attached residential	100	50
Maximum building height	20	10
Minimum dwelling unit/garage size	10	5
Minimum building spacing	10	5
Maximum building size	20	10
Mandatory use-mixing requirements	N/A	10
The minimum or maximum number of off-street parking, loading, or stacking spaces	20	10
Percentage of required common open space devoted to active recreation	20	10
Plant units	20	20
Minimum connectivity index score	20	10
Minimum sustainability score	10	10

3. Procedure

Applications for administrative adjustments shall be submitted to the Community Development and Services Director. If the application is submitted along with an application for an entitlement, the administrative adjustment application will be reviewed and decided upon as part of the entitlement application.

4. Review and Decision

The Community Development and Services Director shall review each application for an administrative adjustment and act to approve, approve with conditions, or deny the application based on the approval criteria of Section 19.6.9.B.5, *Approval Criteria*.

5. Approval Criteria

Administrative adjustments may be approved by the Community Development and Services Director only upon a finding that all of the following criteria have been met:

(a) The requested adjustment is consistent with the stated purposes of this Development Code.

(b) The administrative adjustment will not substantially interfere with the convenient and enjoyable use of adjacent lands, and will not pose a danger to the public health or safety.

(c) Any adverse impacts resulting from the administrative adjustment will be mitigated to the maximum practical extent.

(d) The administrative adjustment is of a technical nature (i.e., relief from a dimensional or design standard), and is either:

(1) Required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general;

(2) Supporting an objective or goal from the purpose and intent statements of the zoning district where located; or

(3) Proposed to protect sensitive natural resources or better integrate development with the desert environment.

6. Findings of Fact

The decision of the Community Development and Services Director shall be accompanied by written findings of fact specifying the reasons for the decision. Staff shall specify any approved minor modifications and the justifications for such modifications on the pending development application for which the modifications were sought.

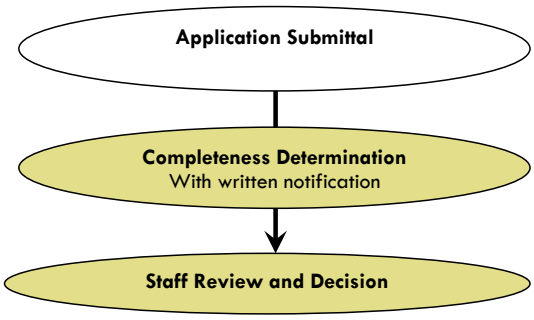
7. Notice of Decision

Within five days of the Community Development and Services Director's decision on an administrative adjustment, the Community Development and Services Director shall mail notice of the decision to the applicant and all other parties who have made a written request for notification.

8. Appeals

Appeals of the Community Development and Services Director's decision on an administrative adjustment shall be taken to the Planning Commission, in accordance with the appeal procedures of Section 19.6.9.E, *Appeals*.

FIGURE 19.6.9-A: SUMMARY OF ADMINISTRATIVE ADJUSTMENT PROCESS



C. VARIANCES

1. Applicability

Variances are deviations from the strict requirements of this Development Code. They may be granted only when necessary to relieve peculiar and exceptional practical difficulties or exceptional and undue hardships resulting from the size, shape, or dimensions of a site or the location of existing structures thereon; from geographic, topographic or other physical conditions on the site or in the immediate vicinity; or from street locations or traffic conditions in the immediate vicinity of the site. Only the following standards are eligible for a variance:

(a) Site or lot area, lot width, setback, height, building coverage, structure spacing, or dwelling size;

(b) Any of the off-street parking and loading standards in Section 19.7.4, Parking and Loading and Chapter 19.5, Use Regulations;

(c) Any of the landscaping and buffering standards in Section 19.7.5, Landscaping and Screening;

(d) Any of the performance standards of Section 19.7.8, Operational Performance;

(e) Any of the sign standards of Chapter 19.8: Signs.

2. Application Filing

Applications for variances shall be submitted to the Community Development and Services Director.

3. Public Hearing Notice

Notice of public hearings on variances shall be posted and mailed in accordance with the requirements of Section 19.6.3.B.4, *Public Notice*.

4. Community Development and Services Director Review and Report

The Community Development and Services Director shall review each proposed variance in light of the approval criteria of Section 19.6.9.C.6, *Variance Approval Criteria*, and, as deemed necessary, distribute the application to other reviewers. Based on the results of those reviews, the Community Development and Services Director shall provide a report to the Planning Commission.

5. Planning Commission Review and Action

(a) Within 50 days of receipt of a complete application, the Planning Commission shall hold a public hearing on the proposed variance request. At the close of the public hearing, the Planning Commission shall act to approve, approve with conditions, or deny the application, based on Section 19.6.9.C.6, Variance Approval Criteria.

(b) Design review applications that are being processed concurrently with variances shall be reviewed and approved concurrently with the variance by the Planning Commission.

6. Variance Approval Criteria

(a) Sign Variances

Variances to the sign regulations of Chapter 19.8: *Signs* are intended to correct difficulties that cannot be resolved practically with alternate sign types or locations. A sign variance may be approved by the Planning Commission only if they find that all of the following criteria have been met:

(1) Physical Barriers

i. A physical barrier such as an existing building or sign on a property not under control of the applicant substantially blocks view of the proposed sign if constructed in strict compliance with this Development Code.

ii. The placement of the proposed sign in strict compliance with this Development Code will become a physical barrier substantially blocking view of a sign on a neighboring site not under the control of the applicant.

(2) Changing the height or setback within the limitations of the Development Code will not substantially correct the obscurity.

(3) An alternate type of signage authorized by this Development Code will not provide identification adequate to allow safe movement of vehicles and pedestrians to the site.

(b) Other Variances

Variances to regulations other than signs may be approved by the Planning Commission only if they find that all of the following criteria have been met:

(1) Because of special circumstances or conditions applicable to the subject property, including narrowness, hollowness, shape, exceptional topography, or other extraordinary or exceptional situations or conditions, strict application of the requirements of this ordinance would result in peculiar and exceptional difficulties or undue hardships for the owner of the property.

(2) The variance may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources, and without detriment or injury to property or improvements in the vicinity of the development site or to the public health, safety, or general welfare.

(3) Granting the variance is consistent with the purposes of this ordinance and will not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zoning district.

(4) Granting the variance will not allow a use that is otherwise prohibited in the underlying zoning district.

7. Findings of Fact

The decision of the Planning Commission shall be accompanied by written findings of fact specifying the reasons for the decision.

8. Notice of Decision

Within five days of the Planning Commission's decision on a variance, the Community Development and Services Director shall mail notice of the decision to the applicant and all other parties who have made a written request for notification.

9. Appeals

Appeals of the Planning Commission's decision on variances shall be taken to the City Council in accordance with the appeal procedures of Section 19.6.9.E, *Appeals*.

10. Effective Date

The Planning Commission's decision on a variance shall become effective ten days after the date that the City Clerk received written notice of the Planning Commission's approval of the variance, unless a valid appeal is filed in accordance with Section 19.6.9.E, *Appeals*. No permit shall be issued until expiration of the appeal period.

11. Lapse of Approval

(a) A variance shall lapse and have no further effect one year after its effective date or at such alternate time specified in the approval unless one or more of the following criteria has been met:

(1) A building permit has been issued and construction diligently pursued.

(2) A certificate of occupancy has been issued.

(3) The structure is established.

(4) The variance is renewed.

(b) A variance shall lapse if the rights granted by it are discontinued for 180 consecutive days.

12. Extensions of Time

The Community Development and Services Director may renew or extend the time of a variance when the applicant demonstrates good cause for the extension. Any such administrative extension granted shall not exceed one year in length, and no more than one extension may be granted by the Community Development and Services Director. Additional extensions of time may be approved by the Planning Commission, whose decision may be appealed to the City Council in accordance with the appeal procedures of Section 19.6.9.E, *Appeals*.

13. Transferability

The status of a variance is not affected by changes of tenancy, ownership, or management.

14. Amendments

A request for changes in conditions of approval of a variance or a change to development plans that would affect a condition of approval shall be processed as a new application.

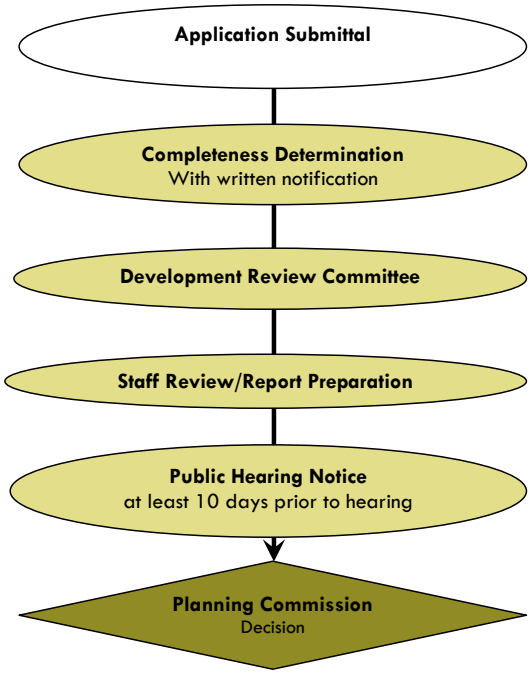
15. Successive Applications

Following denial of a variance request, no new application for the same or substantially the same matter shall be accepted within one year of the date of denial, unless denial is made without prejudice.

16. Complaints Regarding Approved Variances

Complaints regarding approved variances shall be processed in accordance with Chapter 19.11: *Enforcement*.

FIGURE 19.6.9-B: SUMMARY OF THE VARIANCE PROCESS



D. WAIVERS

1. Purpose and Scope

This section allows the approval of a waiver as part of a Waiver of Standards application or the PUD or Master Plan rezoning process, which allows development to occur in a manner that meets the intent of this Code, yet through an alternative design that does not strictly adhere to the Code's standards. This section authorizes a site-specific development alternative that is equal to or better than the strict application of the standards of this Code.

2. Applicability

The waiver procedure is available only for the following:

(a) Site or lot area, lot width, setback, height, building coverage, structure spacing, or dwelling size;

(b) Section 19.4.8.F.3 through F.8, F.12 through F.17, and F.19, Hillside Development Regulations

(c) Section 19.7.2, Common Open Space;

(d) Section 19.7.3, Circulation and Mobility;

(e) Section 19.7.4, Parking and Loading;

(f) Section 19.7.5, Landscaping and Screening;

(g) Section 19.7.6, Building Design Standards;

(h) Section 19.7.7, District-Specific Standards;

(i) Section 19.7.8, Operational Performance;

(j) Section 19.7.12, Sustainability; and

(k) Section 19.9, Subdivision Design and Improvements.

3. Pre-Application Meeting

An applicant proposing to apply for a waiver may request and attend a pre-application meeting prior to submitting application materials for the applicable entitlement(s), to obtain nonbinding input from the Community Development and Services Director regarding proposed benefits. Based on the response, the application should include sufficient explanation and justification, in both written and graphic form, for the requested alternative compliance.

4. Decision-Making Responsibility

Final approval of any proposed waiver shall be the responsibility of the Planning Commission for waivers requested through a Waiver of Standards application or City Council for waivers requested in conjunction with PUD or MP overlays.

5. Criteria

A waiver may be approved if the applicant demonstrates that following criteria have been met by the proposed alternative:

(a) Achieves the intent of the subject standard to the same or better degree than the subject standard;

(b) Advances the goals and policies of the Comprehensive Plan and this Code to the same or better degree than the subject standard;

(c) Provides compensating benefits pursuant to this section; and

(d) Imposes no greater impacts on adjacent properties than would occur through compliance with the specific requirements of this ordinance.

6. Compensating Benefits

(a) Waivers shall be granted only when compensating benefits or amenities are offered that are reasonably related to the proposed waiver and would not otherwise be required by this Code or state law.

(b) Compensating benefits may be provided to meet either, or a combination of, the following criteria:

(1) Benefits the general public:

i. Park(s), trails, or other similar public or cultural facilities;

ii. Public landscape buffers or beautification areas;

iii. Public art;

iv. Permanent conservation of natural areas or lands;

v. Increased building setbacks;

vi. Decreased building height;

vii. Other benefits as agreed upon by the Community Development and Services Director and/or approved by the Planning Commission or City Council.

(2) Benefits the users, customers, or residents of the proposed development:

i. Open space, trails, or other similar recreational amenities;

ii. Upgrades in architectural design;

iii. Increased landscaping;

iv. Increased buffering;

v. Permanent conservation of natural areas or lands;

vi. Secure bicycle facilities, where appropriate;

vii. Other benefits as agreed upon by the Community Development and Services Director and/or approved by the Planning Commission or City Council.

(c) If the benefits provided are required by this Code, they must be provided in an amount that exceeds the requirement.

7. Effect of Approval

A waiver shall apply only to the specific site for which it is requested and shall not establish a precedent for approval of other requests.

E. APPEALS

1. Applicability

The appeal procedures of this section shall apply only when the provisions of this Development Code state that an appeal applies.

2. Effect of Filing

Once a complete application for an appeal has been received by the Community Development and Services Director, no other development approvals or permits will be issued for the subject property pending a decision on the appeal, unless it is determined that such a "hold" on permits and approvals would cause immediate peril to life or property.

3. Aggrieved Party

Appeals allowed under the procedures of this Code may be filed only by an "aggrieved party" who shall be limited to the following:

(a) Any person who testified at the public hearing on the application;

(b) Any person who submitted written comments prior to or during the public hearing on the application;

(c) Any person who testified or submitted written comments on the application prior to or during a public hearing through an authorized representative; or

(d) In the case of applications approved by an administrative official, any person who submitted written comments to such administrative official before the end of the appeal period following the date of the administrative official's action.

4. Consolidation

Appeals by two or more parties aggrieved by the same decision may be consolidated into a single appeal in accordance with NRS 278.3195(3).

5. Initiation

All appeals taken in accordance with this section shall be filed with the Community Development and Services Director no more than nine days after the date of the decision or action being appealed. A fee for the filing of the appeal may be charged. In the event of an appeal of a decision or interpretation of the Community Development and Services Director, appeals shall be filed with the Community Development and Services Director no more than nine days after the date the applicant or requesting party is/was notified of the final decision.

6. Contents of Appeal

The application for the appeal shall specify the grounds for the appeal, a statement of the improper decision or interpretation, the date of the decision or interpretation, and all relevant supporting materials.

7. Record

Upon receipt of the materials initiating an appeal, the Community Development and Services Director shall assemble all papers, documents, and other materials related to the action being appealed. These materials shall constitute the record of the appeal.

8. Notice and Hearing Requirements

The requirements for hearings, notices, and approval criteria shall be the same as required of the original action that is the subject of the appeal.

COMMENTARY

Written notice of appealable decisions will typically be delivered to the City Clerk no later than five days following action by the decision-making body. Appeals must be filed within nine days following action by the decision-making body.

9. Appeals of the Decision and Interpretations of the Community Development and Services Director

(a) The Planning Commission shall have the authority to hear and decide all appeals of decisions and interpretations of the Community Development and Services Director. The Planning Commission shall consider the appeal as a new matter and act to affirm, modify, or reverse the decision or interpretation within 45 days of the end of the appeal period.

(b) In acting on the appeal of an interpretation, the Planning Commission shall grant to the Community Development and Services Director's interpretation a presumption of correctness, placing the burden of persuasion of error on the appellant. The Planning Commission shall rely on the City Attorney's interpretation of matters regarding state or federal law.

(c) The Planning Commission's decision on an appeal of the Community Development and Services Director may be appealed to the City Council.

10. Appeals of Planning Commission Decisions

(a) The City Council shall have the authority to hear and decide all appeals of decisions of the Planning Commission and shall be guided by the statement of the purpose underlying the regulation of the improvement of land expressed in NRS 278.020. The City Council shall, within 45 days of the end of the appeal period, consider the appeal as a new matter and act to affirm, modify, or reverse the Planning Commission decision, or act to continue the item for not more than 35 days and to a date specific. The City Council may not grant to an aggrieved party more than two continuances on the same matter unless the City Council determines, upon good cause shown, that additional continuances are warranted and the applicant agrees to such additional continuances.

(b) The City Council's decision is final for the purpose of judicial review.

11. Continued Meetings or Hearings

An appellant is limited to a maximum of two requests to continue a meeting or hearing on an appeal unless the decision-making body hearing the appeal grants a request for an additional continuance based on a demonstration of good cause and the applicant agrees to such additional continuances.

12. Notice of Decision

Within five days of a decision on an appeal of a written interpretation, the Community Development and Services Director shall mail notice of the decision to the appellant and all other parties who have made a written request for notification.

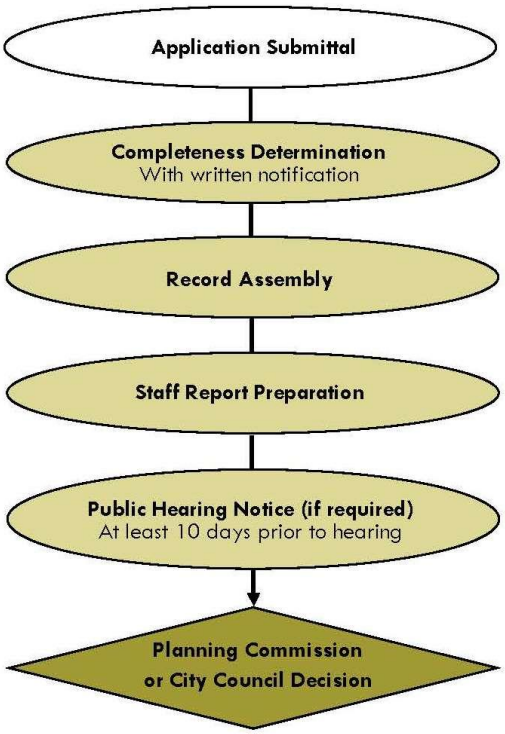
13. Effective Date

Decisions of the Planning Commission on appeals shall become effective ten days after the date of the Planning Commission's decision unless a new appeal to City Council is filed. Decisions of the City Council on appeals shall become effective upon the date of the decision.

14. Successive Applications

Following denial of an appeal, no new appeal for the same or substantially the same matter shall be accepted for one year from the date of denial, unless the denial is made without prejudice.

FIGURE 19.6.9-C: SUMMARY OF THE APPEAL PROCESS



F. INTERPRETATIONS

1. Request Filing

Requests for written interpretations of this Development Code shall be submitted to the Community Development and Services Director.

2. Community Development and Services Director's Review and Decision

Within 30 days of receipt of a complete request for a written interpretation, the Community Development and Services Director shall:

(a) Review and evaluate the request in light of this Development Code, the Comprehensive Plan, and any other relevant documents;

(b) Consult with other staff, as necessary;

(c) Consult with the City Attorney on any interpretation that may require the application or interpretation of state or federal law; and

(d) Render a written interpretation with a copy of the written interpretation sent to the members of the Development Review Committee.

3. Form

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

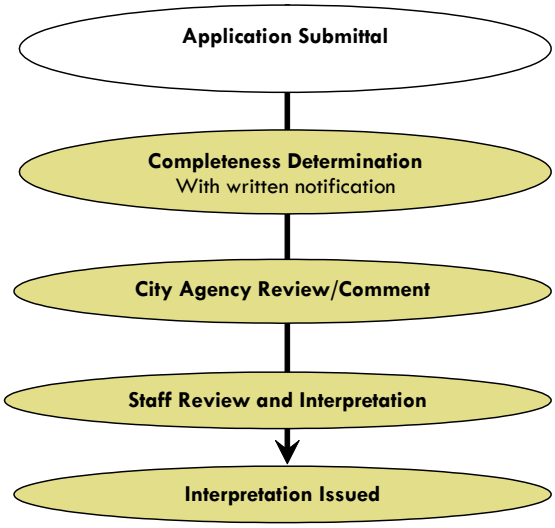
4. Official Record of Interpretations

An official record of interpretations shall be kept on file in the office of the Community Development and Services Director. The record of interpretations shall be available for public inspection in the Community Development and Services Department during normal business hours.

5. Appeals

Appeals of the Community Development and Services Director's written interpretation shall be taken to the Planning Commission in accordance with the appeal procedures of Section 19.6.9.E, *Appeals*. If the appeal results in a change of interpretation, the new interpretation shall be filed in the official record of interpretations.

FIGURE 19.6.9-D: SUMMARY OF INTERPRETATION PROCESS



G. WAIVER OF STANDARDS APPLICATIONS

1. Purpose and Description

This section outlines procedures for the submittal, review, and approval of the Waiver of Standards application. A waiver of standards application may be used to gain approval of waivers from, or modifications to, Development Code standards as set forth in 19.6.9.D, *Waivers*. It provides a method of obtaining waivers of the Development Code separate from submitting zone changes, tentative maps, design reviews, or other specific development plans.

2. Applicability

(a) All requests must comply with Sec. 19.6.9.D, *Waivers*.

(b) Applications may be submitted as a stand-alone request or with other accompanying applications.

(c) The applicant bears the burden of proof to establish that approval of the waiver(s) requested is warranted and appropriate.

(d) The fact that a waiver for the same or similar use has been granted previously for the subject property or nearby property is a factor to be considered, but is not determinative.

3. Public Hearing Notice

Notice of public hearings on waiver of standards shall be posted and mailed in accordance with Section 19.6.3.B.4, *Public Notice*.

4. Application Filing

Applications for waiver of standards shall be submitted to the Community Development and Services Director.

5. Community Development and Services Director Review and Report

The Community Development and Services Director shall review each proposed waiver of standards application in light of the approval criteria of 19.6.9.G.7, *Waiver of Standards Approval Criteria*, and, as deemed necessary, distribute the application to other reviewers. Based on the results of those reviews, the Community Development and Services Director shall provide a report to the Planning Commission.

6. Planning Commission Review and Decision

(a) Within 50 days of receipt of a complete application, the Planning Commission shall hold a public hearing on the proposed waiver of standards. At the close of the public hearing, the Planning Commission shall act to approve, approve with conditions, or deny the application, based on the approval criteria of Section 19.6.6.E.8, *Waiver of Standards Approval Criteria*. However, the Planning Commission's vote shall be a recommendation only when the application is being processed concurrently with an application that requires a final decision by the City Council.

(b) Design review applications that are being processed concurrently with waiver of standards applications shall be reviewed and approved concurrently by the Planning Commission.

7. Waiver of Standards Approval Criteria

A waiver of standards application may be approved only if the Planning Commission or City Council finds that all of the following criteria have been met:

(a) The proposal is consistent with the Comprehensive Plan;

(b) The proposed development addresses a unique situation, confers a substantial benefit to the City, or incorporates creative site design such that it achieves the purposes of this Code and represents an improvement in quality over what could have been accomplished through strict application of the otherwise applicable district or development standards. Such improvements in quality may include, but are not limited to:

(1) Improvements in open space provision and access;

(2) Environmental protection;

(3) Tree/vegetation preservation;

(4) Efficient provision of streets, roads, and other utilities and services; or

(5) Increased choice of living and housing environments.

(c) The proposal mitigates any potential significant adverse impacts to the maximum practical extent;

(d) The same development could not be accomplished through the use of other techniques such as variances or administrative adjustments;

(e) The applicant has shown, by clear and convincing evidence, that the waiver(s) requested will not compromise the objective of the City in safeguarding the interests of the citizens of the City;

(f) The waiver(s) will not be materially detrimental to the public health, safety, or general welfare, or injurious to the property or improvements in the vicinity and land use and zoning districts in which the property is located; and

(g) Granting the waiver(s) does/will not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and land use or zoning district in which the property is located.

8. Findings of Fact

The decision of the Planning Commission or City Council shall be accompanied by written findings of fact specifying the reasons for the decision.

9. Notice of Decision

Within five days of the Planning Commission's decision on a waiver of standards application, the Community Development and Services Director shall mail notice of the decision to the applicant and all other parties who have made a written request for notification.

10. Appeals

(a) Appeals of the Planning Commission's decision on waiver of standards applications shall be taken to the City Council in accordance with the appeal procedures of Section 19.6.9.E, *Appeals*.

(b) Appeals of the City Council decision on waiver of standards applications shall be processed through the court system.

11. Lapse of Approval

An approved waiver of standards application shall lapse and have no further effect 18 months after its effective date or at such alternate time specified in the approval unless:

(a) A building permit has been issued and construction diligently pursued;

(b) In cases where mapping/map-related waivers have been granted, a final map has been recorded;

(c) A certificate of occupancy has been issued;

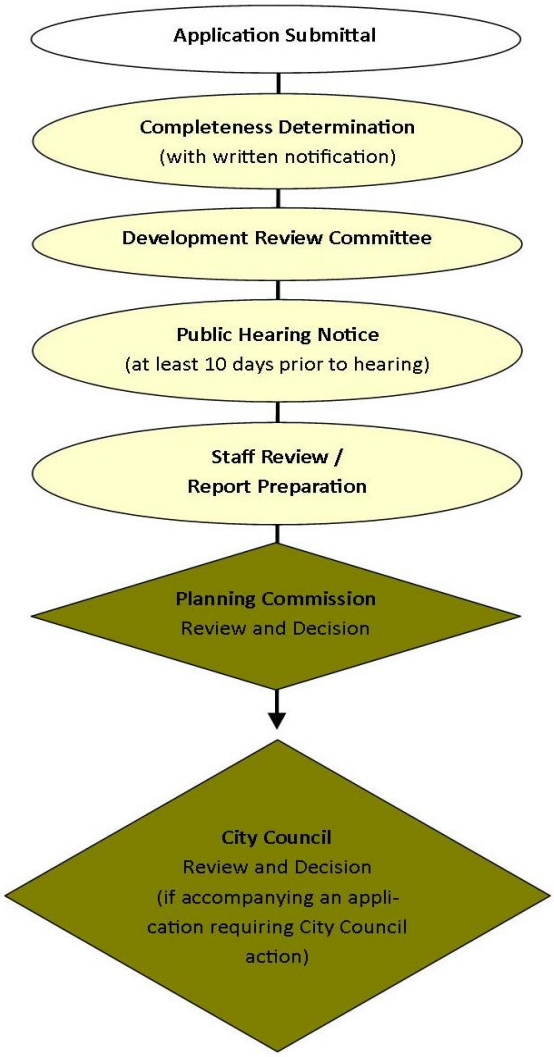
(d) The use is established; or

(e) The Waiver of Standards application has been granted an extension of time.

12. Extensions of Time

The Community Development and Services Director may renew or extend the approval period of a waiver of standards application when the applicant demonstrates good cause for the extension. Any such administrative extension granted shall not exceed 18 months in length, and no more than one extension may be granted by the Community Development and Services Director. Additional extensions of time may be approved by the Planning Commission, whose decision may be appealed to the City Council in accordance with the appeal procedures of Section 19.6.9.E, *Appeals*.

FIGURE 19.6.9-E SUMMARY OF THE WAIVER OF STANDARDS PROCESS



19.6.10. OTHER PROCEDURES

A. DEVELOPMENT AGREEMENTS

1. Applicability

A development agreement is appropriate for development of those parcels that should, at the discretion of the City Council, as recommended by the Development Agreement Advisory Committee (DAAC), be developed in accordance with a development agreement. Development projects that include one or more of the following are subject to development pursuant to a development agreement unless otherwise determined by the DAAC:

(a) A local improvement district or modification to a local improvement district pursuant to NRS Chapter 271;

(b) A refunding agreement entered into pursuant to HMC 14.16;

(c) A request to waive residential construction tax;

(d) An annexation of any size;

(e) Projects with a Sensitive Lands overlay or projects requiring a plan for environmental remediation;

(f) A project requiring the preservation or renovation of historic structures;

(g) A project for which a request for redevelopment funds or tax-increment financing is made;

(h) A project that includes one or more of the following:

(1) 250 or more single-family dwelling units;

(2) 500 or more multifamily dwelling units;

(3) 200 or more hotel rooms;

(4) 40 or more acres of nonresidential development; or

(5) A project that generates over 3000 average daily trips (commercial/industrial only).

(i) A project that includes one or more of the following:

(1) A facility that generates more than 50 megawatts of electricity;

(2) A natural gas storage or peak-shaving facility; or

(3) A gas regulator station or main that operates or is capable of operating at over 200 pounds per square inch.

(j) Property proposed for a master plan development overlay where existing infrastructure is not of sufficient capacity to support the proposed development;

(k) Property acquired through a Bureau of Land Management (BLM) land sale;

(l) Property acquired through a City of Henderson sale pursuant to NRS 268.048 *et seq.*;

(m) Property located within the West Henderson Land Use Plan boundary;

(n) Property located within a public facilities needs assessment area;

(o) Development of a property currently or previously subject to an inactive, non-compliant, or cancelled development agreement;

(p) Proposed amendments or development changes to property currently subject to any one or more of the above;

(q) A proposal to redevelop or change the use of a golf course, park, open space or PS-zoned land; or

(r) A project consisting of or containing an age-restricted community.

2. Development Agreement Appropriateness Determination

For any project described in 19.6.10.A.1, the applicant shall submit an application for a concept plan review pursuant to 19.6.3.A.3(b)(2) to the Community Development and Services Department, which shall collaborate with the Development Agreement Advisory Committee (DAAC) to:

(a) Make a determination whether a development agreement is the appropriate method for development of the project and if so, whether a standard agreement is appropriate.

(b) If the DAAC determines that a development agreement is appropriate, the applicant shall submit an application for the development agreement.

(c) If the DAAC does not authorize the applicant to proceed using a standard development agreement, the City will then prepare and negotiate the development agreement with the applicant.

(d) If the DAAC determines that a standard development agreement is appropriate, the City will provide the applicant with a proposal consisting of a standard development agreement. If at any time the applicant elects not to use the standard development agreement, the City will then prepare and negotiate the development agreement with the applicant.

(e) Entitlements related to the standard development agreement will follow the normal entitlement process. Standard development agreements will not require Planning Commission approval but shall be executed and approved by ordinance prior to issuance of any building permits.

(f) If the development agreement includes any of the items listed in 19.6.10.A.4 (b)(17), Planning Commission must review the development agreement and make a recommendation to City Council regarding the appropriate action.

(g) Any entitlements related to a property or project that has been determined to be subject to a development agreement will be conditioned to require the execution and approval of the development agreement prior to the issuance of any building permit. Once a development agreement has been adopted by ordinance, no building permit shall be issued unless a valid development agreement remains in effect and the Applicant is not in breach of the development agreement terms.

(h) All development agreements shall be approved by ordinance in a manner consistent with NRS 278.

3. Development Agreement Terms

A development agreement shall conform to the applicable requirements of NRS 278.0201 *et seq*. and NRS 278.02591 *et seq.,* and:

(a) Must contain provisions:

(1) Describing the land that is the subject of the development agreement;

(2) Specifying the duration of the development agreement;

(3) Specifying events that constitute breach of the development agreement; and

(4) Providing periods during which any breach may be cured.

(b) May contain provisions specific to the type of development, including:

(1) The reservation or dedication of any portion of the land for public use or for the payment of fees in lieu thereof, including, but not limited to rights-of-way, easements, or public facilities, as may be required or permitted pursuant to laws, ordinances, resolutions, rules or plans adopted by the City and in effect at the time of entering into the development agreement;

(2) The protection of environmentally sensitive lands;

(3) The preservation and restoration of historic structures;

(4) The phasing or timing of construction or development on the land, including, without limitation, the dates on which all or any part of the construction or development must commence and be completed, and the terms on which any deadline may be extended. Each portion or phase of development or improvement contemplated should be able to stand alone, independent of proposed further phases or improvements. Subsequent phases of development may be added to completed phases to achieve independent status;

(5) The conditions, terms, restrictions, and requirements for infrastructure on the land and the financing of the public infrastructure by a person having a legal or equitable interest in the land;

(6) The conditions, terms, restrictions, and requirements for annexation of land by the city or county and the phasing or timing of annexation by the city or county;

(7) The conditions, terms, restrictions, and requirements relating to the intent of the governing body to include the land in an improvement district created pursuant to Chapter 271 of NRS;

(8) The conditions, terms, restrictions, and requirements relating to any applicable public needs assessment approved for the area in which the subject property is located;

(9) A schedule of fees and charges;

(10) A description of the laws, ordinances, codes, resolutions, rules, regulations, plans, design, and improvement standards by name and date of

adoption applicable to the project. Unless specified in the development agreement or unless directly in conflict with what is specified in the development agreement, the laws, ordinances, codes, resolutions, rules, regulations, plans, and design and improvement standards adopted by the City Council and in effect at the time of issuance of any required construction or building permit shall apply;

(11) Any conditions imposed by other land use and permit approvals allowed by law as of the effective date of the development agreement;

(12) Security for the construction of the required common area and public improvements in an amount sufficient to complete all required improvements and to remove all rubbish, trash, debris, surplus material, and equipment from the area as determined by the DAAC. Security shall be by such good and sufficient bond or other security as is deemed appropriate by the City Council to protect the public interest;

(13) An indemnity and insurance clause requiring the developer, applicant, and property owner to indemnify the City against certain claims arising out of the development;

(14) An allowance for the waiver of any other provision of the HMC consistent with the purpose of the development agreement;

(15) A review of compliance with the development agreement terms and conditions every 24 months or sooner as specified in the approved development agreement;

(16) Any other matters relating to the development of the land; and

(17) The permitted uses of the land and development regulations including:

i. A land use development plan;

ii. Subdivision design and improvement standards;

iii. General development standards;

iv. Standards for signs;

v. Provisions for nonconformities;

vi. The density or intensity of the use of the land; and

vii. The maximum height and size of any proposed buildings.

(c) Nothing in Sections 19.6.10.A.3(a) or (b) shall be construed to preclude the City from concurrently utilizing any other entitlement process or processes described in this Code in conjunction with the development agreement prepared pursuant to this Chapter.

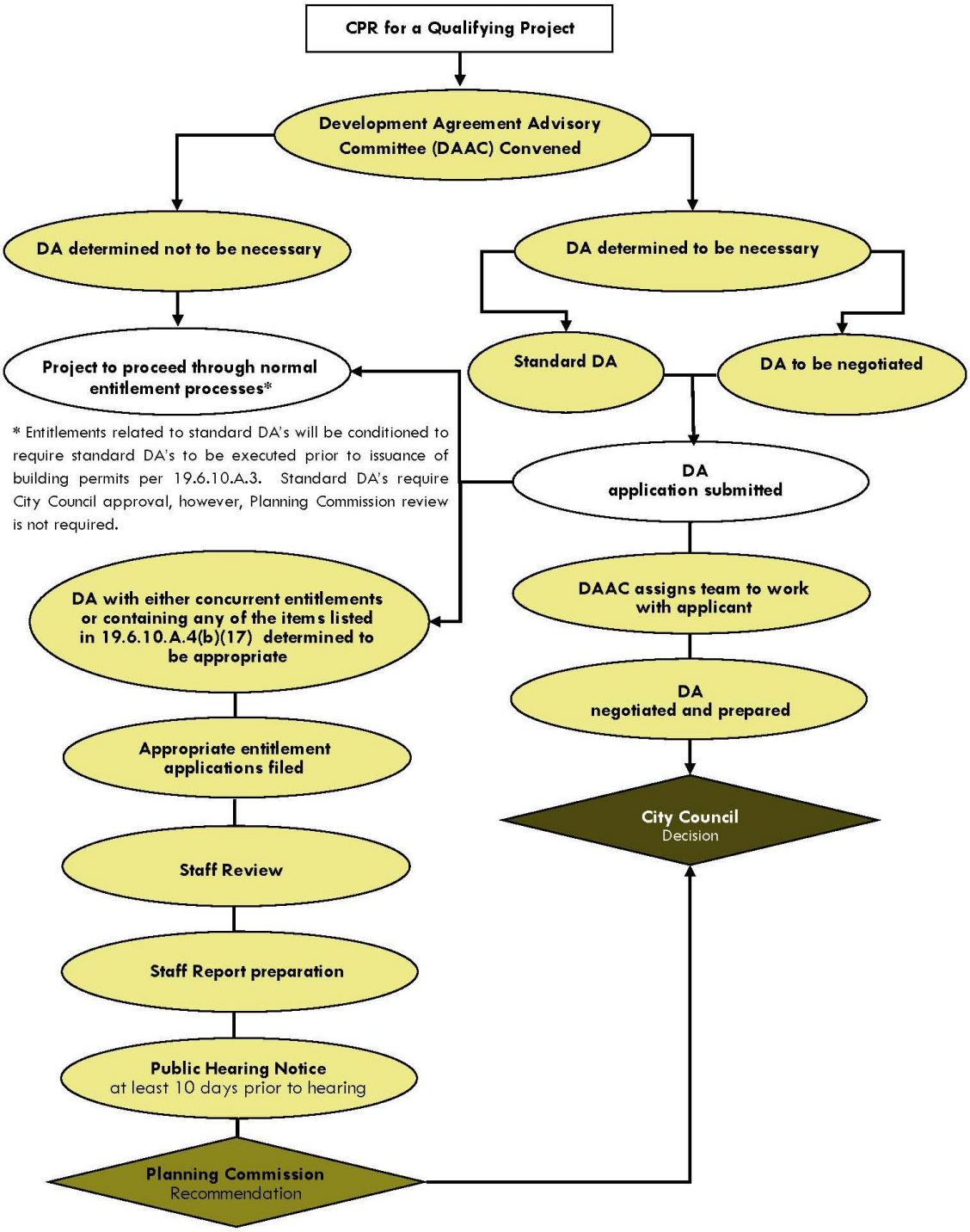
4. Amendment and Cancellation

(a) A development agreement may be amended or cancelled in whole or in part, with or without the consent of the other parties to the development agreement or their successors in interest, for any reason set forth in NRS 278.0205 and in accordance with procedures set forth in NRS 278.0205.

(b) If a development agreement has been cancelled in whole or in part pursuant to NRS 278.0205, and unless a new development agreement is entered into to replace the cancelled development agreement or portion thereof, the property previously the subject of the development agreement shall maintain its zoning unless otherwise specified in the development agreement. The property is then subject to a City-initiated zone change application or an applicant-initiated zone change application in conformance with the requirements set forth in Section 19.6.10.A.

(c) Amendments to development agreements that include any of the items listed in 19.6.10.A.4(b)(17) must be reviewed by Planning Commission and referred to City Council for appropriate action.

FIGURE 19.6.10-A DEVELOPMENT AGREEMENT PROCESS



B. CREATION OF LANDSCAPE MAINTENANCE DISTRICTS

1. Applicability

Qualified persons under NRS 278.4787, as amended, may ask the City of Henderson to create a landscape maintenance district for maintenance of landscaping, public lighting, and security walls.

2. Application Filing

Applications for landscape maintenance districts in a residential subdivision shall be submitted to the Community Development and Services Director. Applications to establish a landscape maintenance district in a new residential subdivision shall be filed at least 120 days before the approval of a final map (Section 19.6.5.E) for the land where improvements to be maintained are located.

3. Public Hearing Notice

Notice of public hearings on landscape maintenance districts shall be published, mailed, and posted in accordance with the requirements of Section 19.6.3.B.4, *Public Notice*.

4. Community Development and Services Review and Report

The Community Development and Services Director shall review each proposed landscape maintenance district in light of the approval criteria of Section 19.6.10.B.7, *Landscape Maintenance District Approval Criteria*, and, as deemed necessary, distribute the application to other reviewers. Based on the results of those reviews, the Community Development and Services Director shall provide a report to the Planning Commission.

5. Planning Commission Review and Recommendation

The Planning Commission shall hold a public hearing on the proposed landscape maintenance district and at the close of the public hearing recommend that the City Council approve, approve with conditions, or deny the application, based on the approval criteria of Section 19.6.10.B.7, *Landscape Maintenance District Approval Criteria*.

6. City Council Review and Decision

After reviewing the recommendation of the Planning Commission, the City Council shall act to approve, approve with conditions, or deny the proposed landscape maintenance district based on the approval criteria of Section 19.6.910.B.7, *Landscape Maintenance District Approval Criteria*. If the City Council makes a determination that it is desirable to assume the maintenance of the proposed improvements, the City Council shall form a landscape maintenance district by ordinance.

7. Landscape Maintenance District Approval Criteria

Landscape maintenance districts may be approved only if the City Council finds that all of the following criteria have been met:

(a) The petition for a landscape maintenance district shall meet the City of Henderson design and construction standards and cost analysis parameters for landscape materials and maintenance.

(b) The maintenance of the proposed improvements on the subject property alone, or cumulatively with other maintenance districts in Henderson, will not create an unreasonable administrative or financial burden upon the City.

(c) Assumption of the maintenance of the proposed improvements or submitted plan is consistent with the City's accepted standards.

(d) The proposed landscaping, public lighting, or security wall plans are compatible with the character of the area in which they are located.

(e) The landscaped areas to be maintained shall not be a part of a master plan overlay District as defined in Chapter 19.3: Nonresidential, Mixed-Use, and Special-Purpose Zoning Districts, unless the landscaped areas to be maintained constitute the only common element in the subdivision or development. Developers of property within a Master Plan Overlay specifically approved for a Landscape Maintenance District through an annexation agreement or prior master plan approval may request formation of a landscape maintenance district.

(f) Maintenance of the proposed improvements will be in the best interest of the public and will not be injurious to the health, safety, and general welfare of the community.

8. Maintenance District Coordination Team

A maintenance district coordination team shall be created to establish policies and procedures for implementing, operating, and fulfilling the City's obligations for any maintenance districts created pursuant to this ordinance. The coordination team shall be composed of representatives from Public Works Parks and Recreation, Finance, City Attorney, Neighborhood Services, Utilities, and Community Development and Services.

9. Dissolution of a Landscape Maintenance District

The dissolution of a landscape maintenance district shall be initiated with the submission of a formal request to dissolve the district filed in a landscape maintenance district application to the Community Development and Services Director. Applications for the dissolution of a landscape maintenance district will be considered by the City Council. Notice of public hearings on the dissolution of a landscape maintenance district shall be published in accordance with the requirements of Section 19.6.3.B.4, *Public Notice*. A landscape maintenance district may be dissolved by the City Council if it determines that:

(a) Improvements within the district are no longer necessary; or

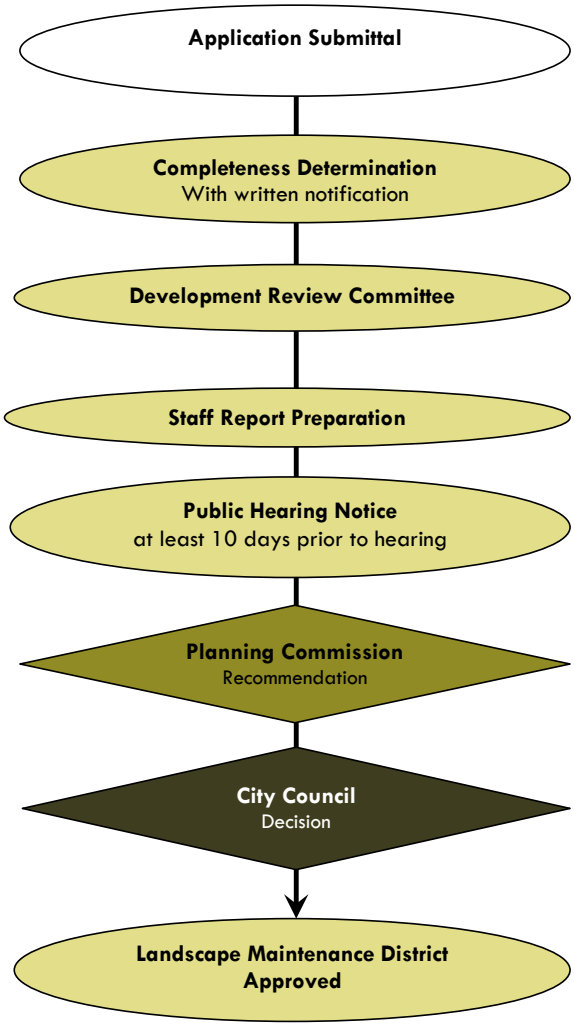
(b) It is no longer in the public interest for the City to assume the maintenance for the improvements; or

(c) An association for a common-interest community has been formed to maintain landscaping, public lighting, and security walls in lieu of a maintenance district under NRS 278.4787.

10. Appeals

Appeals of the City Council's decision on landscape maintenance districts shall be made to the courts, as provided by law.

FIGURE 19.6.10-B: SUMMARY OF PROCESS FOR CREATING LANDSCAPE MAINTENANCE DISTRICTS



C. DISTANCE SEPARATION ANALYSIS

1. Applicability

A distance separation analysis is utilized to measure the distances between a proposed use and a protected use, as defined by this Code. This analysis is used to determine if the proposed use meets the required distance separation from one or more protected uses and if waivers, if applicable, are needed for the proposed use to proceed. The distance separation analysis shall be completed by city staff.

2. Application Filing

Applications for distance separation analysis shall be submitted to the Community Development and Services Director.

3. Community Development Review and Report

The Community Development and Services Director or designee shall review each proposed distance separation analysis application and, as deemed necessary, distribute the application to other reviewers. Based on the results of those reviews, the Community Development and Services Director shall provide a final determination to the applicant.

4. Notice of Decision

Within seven working days of submittal of a complete application, the Community Development and Services Director or designee shall provide notice of the decision to the applicant and all other parties who have made a written request for notification.

5. Lapse of Approval

(a) A distance separation analysis determination for liquor, massage, reflexology, smoke/tobacco shop establishment, teenage dancehall, teenage nightclub, sexually-oriented business, halfway house for recovering alcohol and drug abusers, residential facility for groups, check cashing/deferred deposit/auto title loans, and general day care and group child care facility uses shall lapse 60 days from notice of decision.

(b) A distance separation analysis determination for marijuana establishment use shall lapse 120 days from notice of decision.

6. Appeals

Appeals of the Community Development and Services Director's or designee's distance separation analysis determination shall be made to the Planning Commission in accordance with the appeal procedures of Section 19.6.9.E, *Appeals*.

D. REASONABLE ACCOMMODATION PROCESS

1. Purpose

It is the policy of the City of Henderson to provide individuals with disabilities reasonable accommodation in its rules, policies, practices, and procedures to ensure the equal access to housing and facilitate the development of housing for individuals with disabilities in compliance with the Federal Fair Housing Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act (referred to herein as the "Federal Acts.") This Section provides a procedure for making requests for reasonable accommodations in land use and zoning policies, practices, and procedures of the City of Henderson to comply fully with the intent and purpose of the Federal Acts. Nothing in this Section requires persons with disabilities or operators of Community Residences for persons with disabilities acting or operating in accordance with applicable zoning, licensing, or land use laws or practices to seek reasonable accommodation under this Section.

2. Applicability

(a) Eligible Applicants

(1) A request for a reasonable accommodation to any provision of this Code or any related policy or practice may be made by any person with a disability, his or her representative (e.g. family member, care provider, etc.), or a provider of housing for persons with disabilities, when the application of such provision, policy or practice may act as a barrier to affording such person equal opportunity to use and enjoy a dwelling.

(2) A person with a disability is a person who has a physical or mental impairment that limits one or more major life activities, anyone who is regarded as having this type of impairment, or anyone who has a record of this type of impairment. While a person recovering from substance abuse is considered a person with a disability, a person who is currently engaging in the current illegal use of controlled substances is not.

(3) This Section is intended to apply those persons who are defined as disabled or handicapped under the Federal Acts.

(b) Eligible Requests

(1) A request for a reasonable accommodation may include a modification or exception to the provisions of this Code, or any policies, rules, standards and practices for the siting, development, and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to use and enjoy a dwelling of his or her choice.

(2) A request for a reasonable accommodation shall comply with Section 19.6.10.D.3.

(3) The City will provide the assistance necessary to the applicant in making a request for a reasonable accommodation. A request by an applicant for reasonable accommodation may be made orally or in writing, although requests made in writing may be encouraged by city staff to avoid misunderstandings and maintain an accurate record of the request. The City shall assist the applicant by furnishing any information maintained by the City as a public record, such as city ordinances, policies, rules and regulations, necessary for processing the reasonable accommodation request.

(4) Notice of the availability of a reasonable accommodation shall be prominently displayed at all public information counters in the City's Community Development and Services Department and City Clerk's Office. Forms for requesting reasonable accommodations shall be available to the public in the Community Development and Services Department or upon request.

(5) If the information provided by the applicant includes medical information or records of the applicant, including records indicating medical condition, diagnosis, or medical history of the applicant, the City, to the extent permitted by law, shall treat such information as confidential information of the City. The City shall provide written notice to the applicant and any person designated by the applicant to represent the applicant in the application process, of any request received by the City for disclosure of the medical information or documentation which the applicant has provided to the City. The City will cooperate with the applicant, to the extent permitted by law, in actions initiated by the applicant to oppose the disclosure of such medical information or documentation.

3. Application Requirements

(a) The Community Development and Services Department shall provide applicants for a reasonable accommodation with an application form eliciting the following information:

(1) The applicant's name, address and telephone number;

(2) The name, address, and telephone number of the property owner and the current address for which the request is being made;

(3) The current actual use of the property;

(4) The basis for the claim that the applicant is considered disabled under the Federal Acts or provides housing for persons considered disabled under the Federal Acts. Only that information necessary to evaluate the reasonable accommodation shall be requested. Medical records and detailed information regarding an individual's disability are usually not necessary for this inquiry. All information submitted in support of the basis of a claim of disability shall be retained ina menner so as to respect privacy rights of the applicant and shall not be made available for public inspection;

(5) The Development Code provision, regulation or policy from which reasonable accommodation is being requested; and

(6) An explanation why the reasonable accommodation is necessary to make specific property available for the individual.

(b) The Community Development and Services Department shall assist the applicant in completing the form, as necessary, or shall elicit oral information from the applicant necessary for the Department to complete the form. In the event the Department completes the form by eliciting oral information from the applicant, the Department shall read the completed form to the applicant to ensure its accuracy and shall provide a copy of the completed form to the applicant.

(c) A reasonable accommodation shall not affect an individual's obligation to comply with other applicable regulations not at issue in the requested accommodation.

4. Review of Applications

(a) A request for a reasonable accommodation shall be reviewed, and a determination made, by the Community Development and Services Director.

(b) The Director shall make a written determination within 30 days of the submittal of a complete application and either approve, approve with modifications, or disapprove a request for a reasonable accommodation in compliance with Section 19.6.10.D.5.

(c) If necessary to reach a determination on the request for reasonable accommodation, the Director of Community Development and Services may request further information from the applicant consistent with the Federal Acts, specifying in detail the information that is required. In the event that a request for further information is made, the 30-day period to issue a decision is stayed until the applicant responds to the request.

5. Findings and Decision

(a) The written decision to approve or disapprove a request for a reasonable accommodation will be consistent with the Federal Acts and shall be based on consideration of all of the following factors:

(1) Whether the housing, which is the subject of the request, will be used by one or more individuals with a disability as defined under the Federal Acts;

(2) Whether the request for a reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Federal Acts;

(3) Whether the requested reasonable accommodation would impose an undue financial or administrative burden on the City (this determination will be made on a case by case basis and will involve various factors);

(4) Whether the requested accommodation would fundamentally alter the nature of a City program or law, including but not limited to land use and zoning; and

(5) If the City determines that the applicant's request would impose an undue financial or administrative burden on the City, or fundamentally alter a city program or law, it may propose an alternative accommodation that would provide an equal benefit. In the event the City makes a determination not to accommodate an applicant's initial request, this determination shall be documented.

(b) The written decision on the request for a reasonable accommodation shall include the Community Development and Services Director's findings and any other relevant information upon which the decision is based. All written decisions shall give notice of the applicant's right to appeal and to request reasonable accommodation in the appeals process in compliance with Section 19.6.9.E provided, however, that the appeal period shall be extended to 20 days rather than 9 days.

(c) The written decision of the Director of Community Development and Services shall be final unless appealed in accordance with Section 19.6.9.E.

(d) A grant or grant with modifications made in compliance with this Section may be conditioned to provide for its rescission or automatic expiration under appropriate circumstances, such as in the event that the disabled person vacates the subject property.