

PLANNING BOARD BYLAWS AND HANDBOOK

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Chapter 1 Introduction

A. History

The Wake County Planning Board came into existence in November 1959 when the Board of Commissioners named 5 persons to serve one-year terms as Planning Board members and assigned them the task of developing a zoning ordinance for the Research Triangle Park and certain urbanizing parts of Wake County. Since 1959, the Commissioners have continued to appoint a Planning Board, expanding it to 6 members in 1967, then to its present size of 10 members in 1973, and changing members' terms to staggered 2-year terms in 1979. The Board was reconstituted in 1993 by the addition of Article III to Chapter 2-2 of the County Code of Ordinances.

The initial Planning Board prepared the County's first zoning ordinance, which the Board of Commissioners adopted in January 1960. At that time, the Commissioners appointed a staff member to serve as Administrator to the Board.

The Board's activities during its first 10 years dealt principally with advisory reviews of rezoning petitions and with proposing and reviewing zoning ordinance text amendments that expanded the scope and coverage of the County's zoning regulations. Staff support consisted of assistance from the County's Zoning Administrator and from staff planners with the regional planning commission (Triangle J Council of Governments, or TJCOG). In 1969, the County hired its own planning staff, and the Board began to expand its activities to address many of the planning issues it deals with today (i.e., thoroughfare planning, water supply and water quality, coordinating development with public facilities, appearance, etc.).

The Planning Board was particularly active in the late 1970's, when it initiated a number of major planning and regulatory projects, including the County's first subdivision ordinance (adopted in May 1976), comprehensive plan policies for protection of rural areas and extension of water and sewer (not adopted), a unified land use code (not adopted), consolidated open space development (COSD) regulations (adopted March 1982), the initial version of the General Development Plan (adopted June 1982), and regulations for protection of water supply watersheds (adopted in March 1984).

The Planning Board thereafter continued to be active with major planning and regulatory activities, including refining the General Development Plan with more detailed land use plans for urban fringe areas jointly developed with County municipalities, developing standards for evaluating municipal requests for additional extraterritorial planning jurisdiction, and developing strategies for preserving open space. From 1994 to 1997, the Board led a task force in developing a Land Use Plan to replace the General Development Plan. The Land Use Plan, adopted in July 1997, established an outline for the County's growth management and land use policies and is to be completed by 2001 with the addition of transitional urban development policies and open space preservation policies, and the refinement and expansion of land use classifications via a series of detailed area land use plans.

B. Organization

The Planning Board consists of ten members appointed by the Wake County Board of Commissioners to staggered 2-year terms (with 5 members appointed each year). Members must be residents of Wake County.

When appointing Planning Board members, the Commissioners generally look for the following qualities: leadership; understanding of the County; time availability; experience and technical background; and the lack of major financial interests in typical Planning Board issues. The Commissioners also generally try to ensure that Board membership reflects a broad and balanced representation of Wake County residents, in terms of both where members live as well as their occupations, interests, and socio-economic status.

From among its members, the Planning Board elects a Chair to preside over its meetings and act as its spokesperson. It also elects a Vice-Chair to substitute for an absent Chair. The Board relies on a number of standing committees for in-depth discussion and evaluation of technical and complex issues that may come before it. The Planning Board Chair appoints Committee members and Committee Chairs.

The County's Planning Department provides the Planning Board technical and administrative staff support for its review of rezoning requests, proposed ordinance amendments, and general planning issues. The Subdivision Administrator, a staff member of the Inspections/Development Plans/Permits Division of the County's Community Services Department, provides the Board technical and administrative staff support in its review of major subdivisions and requests for hardship variances from Subdivision Ordinance standards.

C. Duties

In reconstituting the Planning Board in 1993, the Board of Commissioners provided that the Planning Board have the following duties:

1. To prepare a Comprehensive Plan for the County;
2. To conduct studies of the County and surrounding areas;
3. To recommend objectives to be sought in the development of the County;
4. To prepare and recommend plans for achieving these objectives;
5. To develop and recommend policies, ordinances, administrative procedures, and other means of carrying out plans in a coordinated and efficient manner;
6. To advise the Board of Commissioners concerning the use and implementation of plans;
7. To exercise any functions in the administration and enforcement of implementing plans that are directed by the Board of Commissioners; and

8. To perform any other related duties that are directed by the Board of Commissioners.

The Board of Commissioners has specifically directed the Planning Board to exercise the following seven functions in administering the County's zoning and subdivision regulations. The first three functions are advisory; the next three functions involve administrative determinations; the last function involves quasi-judicial determinations.

1. To review and make recommendations to the Commissioners that they approve or disapprove proposed Zoning Ordinance amendments (including rezonings and ordinance text amendments);
2. To review and make recommendations to the Commissioners that they approve or disapprove proposed Subdivision Ordinance amendments;
3. To review and make recommendations to the Commissioners that they approve or disapprove certain special use proposals required to be decided by the Commissioners (landfills, mining, and hazardous and low-level radioactive waste facilities) [Most special use proposals are decided by the Board of Adjustment, without Planning Board review];
4. To review and approve or disapprove mobile home park proposals;
5. To review and approve or disapprove rules, procedures, and guidelines, as recommended by the Subdivision Administrator, that govern implementation of the Subdivision Ordinance and assist subdividers in understanding the Ordinance's requirements and the applicable subdivision review procedures (for minor subdivisions as well as for major subdivisions);
6. To review and approve or disapprove preliminary plan proposals for major subdivisions [The Subdivision Administrator reviews and decides minor subdivisions]; and
7. To review and approve or deny requests for hardship variances from Subdivision Ordinance standards [Hardship variances from Zoning Ordinance standards are reviewed and decided by the Board of Adjustment].

In addition to these regulatory duties, the Planning Board has a major planning role in initiating, developing, and reviewing issues involving the future physical development of Wake County. This planning role involves wide range of issues, including thoroughfares and public transit, affordable housing, historic preservation, open space preservation, watershed management, hazardous wastes management, and economic development.

D. Responsibilities

To Serve the Public Interest

In reconstituting the Planning Board, the Board of Commissioners defined the Planning Board's purpose as guiding and accomplishing a coordinated and harmonious development of the County that will, in accord with present and future needs, best and most efficiently promote the public health, safety, and general welfare. Appointment to the Planning Board, therefore, represents a

public trust, giving a Board member a responsibility to care for the general welfare of the County and an opportunity to help in shaping the present and future quality of life in Wake County.

Each Board member's primary responsibility is to represent the best interests of the County as a whole. Board members are therefore expected to keep consideration of the general public interest foremost during their deliberations. They should consider the interests of particular individuals or groups only in the context of their relationship to the general public interest. Board members are also expected to retain an open mind to all viewpoints. They should not act as delegates of the particular municipalities, neighborhoods, occupations, interest groups, or socio-economic groups of which they are a part.

Furthermore, the Planning Board often serves as a public forum for citizen participation and discussion of planning issues important to the community. At such times, the Board should attempt to draw out and clarify the positions of people on all sides of the issue, and to identify the relationship of such positions to the public interest.

To Acquire Adequate Information and Knowledge

Each Planning Board member has the responsibility to acquire whatever information and knowledge is necessary to fully understand and make wise decisions and recommendations in the interest of the County. To this end, a Board member is expected to depend on both his or her own personal background, experience, expertise, and familiarity with the County (especially that part of the County in which he or she resides), as well as the expertise and knowledge of, and information available to, County staff members.

Board members are expected to have a full understanding of the County's Land Use Plan and other adopted County policies concerning development. They are expected to be familiar with the general scope, applicability, and organization of the County's zoning and subdivision regulations and review procedures. And they are expected to have a thorough knowledge and understanding of those policies, regulations, and procedures most applicable to the Board's administrative responsibilities (particularly those concerning the review of preliminary subdivision plans and requests for hardship variances from Subdivision Ordinance standards).

Members are encouraged to expand their knowledge and understanding of planning issues through such means as attending planning workshops and conferences and reading planning-related literature. Board members may join the American Planning Association, which offers a number of workshops and conferences and provides the monthly Planning magazine. And Board members may review books, periodicals, and other documents located in the Planning Department's small reference library.

Members are also encouraged to improve their understanding of current applications and issues by discussing them individually with the relevant staff members, either over the phone or in person. (But Board members should generally avoid contacting applicants and other interested parties outside of meetings - see L. in the Rules of Procedure).

At Board meetings, members have the responsibility to insist that they are provided (by an applicant, interested party, or the staff) information of sufficient scope and depth to allow them to fully understand the issues before the Board and the alternative actions available to the Board. If the

application, staff report, and other documents submitted to the Board regarding a particular item are insufficient to enable a Board member to fully understand the issues immediately before the Board, that Board member has the responsibility to ask questions of, or request additional information from, the applicant, other interested parties, and the staff (as appropriate) to acquire the necessary understanding.

To Be Fair

The Board also has the responsibility to ensure that its decision-making process is fair. This means that persons likely to be interested in a particular subject coming before the Board must be provided adequate and timely notice of the meeting at which the Board will review the subject, an opportunity to attend that meeting and present views and information concerning the subject, and an opportunity to know the information and considerations on which the Board bases its action concerning the subject.

Fairness also requires that Board members avoid any bias or the appearance of any conflict of interest in their decisions, that the Board act in a timely manner, that the Board keep full and accurate records of its proceedings, and that the Board establish and make available the ground rules under which it conducts business (The next Chapter, "Planning Board Rules of Procedure," sets forth such rules).

To Make Rational Decisions

The Planning Board has the responsibility to ensure that the decision-making process it applies to any issue before it is not only rational, but is also perceived as rational. This means the Board's decision should consist of conclusions that are based on findings related to the standards, policies, and considerations applicable to the particular type of decision. Furthermore, such findings should be supported by information available to the Board - that is, information contained in an application, staff report, or other document submitted to the Board, or included in any testimony presented before the Board, or explicitly stated by a Board member from his or her personal observations, knowledge, or experience. Although this responsibility is important to all Planning Board decisions, it is an important legal requirement with administrative decisions concerning preliminary subdivision plans and quasi-judicial decisions concerning requests for hardship variances from Subdivision Ordinance standards.

To Take a Broad Perspective

Board members have the responsibility to recognize the comprehensive and long-range nature of many of the Board's decisions. They must consider, as well as balance and integrate, not only the many physical aspects of the issue being decided, but often also its economic and social aspects. They must consider not only the decision's immediate impacts on those persons most affected, but also its future and secondary impacts on the County as a whole. The Board should thus explicitly evaluate all facts, alternatives, means, and consequences relevant to its decisions.

As the County's body of elected officials, the Board of Commissioners are principally occupied with resolving pressing current problems that usually demand immediate action and that often involve the need to balance competing interests. The Commissioners, therefore, rely on the Planning Board to give them advice that reflects a broader and longer-range viewpoint than that demanded of them.

Chapter 2 Planning Board Rules of Procedures

A. Purpose

These Rules are intended to establish procedures ensuring that the Wake County Planning Board performs its responsibilities in an efficient, effective, and fair manner.

B. Governing Statues and Ordinances

The Wake County Planning Board shall be governed by the North Carolina General Statutes, any other general and special state laws relating to planning in Wake County, and Article III of Chapter 2-2 of the Wake County Code of Ordinances, as well as by Wake County's Zoning and Subdivision Ordinances.

C. Officers

1. Chair

The Board shall annually elect one of its members as Chair, to serve a one-year term, and until the Board elects a successor. The Chair has the following powers and duties:

- a. To decide all points of order and procedure, subject to these Rules, unless directed otherwise by a majority of the Board in session at the time;
- b. To appoint any committees found necessary to investigate any matters before the Board;
- c. To call special meetings in accord with these Rules;
- d. To sign documents on behalf of the Board, or to authorize the Secretary to do so; and
- e. To present the Board's recommendations concerning County business to the Board of Commissioners and to otherwise represent the Board.

2. Vice Chair

The Board shall annually elect another of its members as Vice-Chair, to serve a one-year term, and until the Board elects a successor. The Vice-Chair shall serve as acting chair if the Chair is absent or the office of Chair becomes vacant. During such times, the Vice-Chair has the same powers and duties as the Chair.

3. Secretary

A Planning Department staff member designated by the Planning Director shall serve as Secretary to the Board for most purposes. The Subdivision Administrator, a Community Services Department staff member, shall serve as Secretary to the Board in regards to Board actions involving the review of major subdivision preliminary plans and requests for hardship variances from Subdivision Ordinance standards, and shall serve as Secretary to the Board's Subdivision Committee. The Secretary is not a member of the Board and therefore cannot vote

or otherwise act as a Board member. The Secretary, subject to the direction of the Chair, has the following powers and duties:

- a. To record minutes of all Board meetings (including committee meetings);
- b. To conduct all correspondence of the Board;
- c. To arrange for all public notices required to be given;
- d. To notify Board members and interested parties of pending meetings and their agenda;
- e. To act as custodian of all Board records;
- f. To handle funds allocated to the Board in accord with Board directives and applicable County regulations and policies; and
- g. To generally supervise the clerical work of the Board.

4. Elections

The Board shall hold annual elections for the offices of Chair and Vice-Chair at the Board's first regular meeting in April, or at the second meeting following the Commissioners' annual appointment of members, whichever is later.

If the offices of both the Chair and Vice-Chair become vacant before the end of their terms, the Board shall immediately hold a special election to fill both offices.

When conducting elections, the Chair shall first request nominations from Board members. If only one member is nominated, the election may be by unanimous consent. Otherwise, on hearing no further nominations, the Chair shall announce the names of all members nominated, then conduct a vote on each nominee, in the order nominated, until someone is elected. The favorable vote of a majority of the full membership of the Board is necessary to elect a member as Chair or Vice-Chair.

5. Consecutive Terms

The Board may re-elect the current Chair or Vice-Chair to a second term and to a third consecutive term, but may not re-elect either officer to a fourth successive term.

D. Meeting Attendance

Each Board member is responsible for faithfully attending all regular Board meetings. Any Board member who expects to be absent at an upcoming meeting shall so notify the Chair or Secretary as soon as possible.

If any member is absent from any three (3) consecutive regular meetings, or from six (6) or more regular meetings held within the past twelve-month period, or at least 75% of the scheduled meetings of the board, the Chair shall forward that member's name and attendance record to the

Board of Commissioners along with a recommendation that the Commissioners request the member's resignation and appoint a new member as a replacement. Such absences shall also be a consideration by the Board of Commissioners in whether an individual may be reappointed to a position. Failure to attend as stated above shall constitute cause for removal by the Board of Commissioners if the individual refuses to resign. For purposes of this paragraph, required meetings for the Board of Adjustment shall not include site visits. The chair of each board shall make regular reports to the clerk of the Board of Commissioners of membership attendance.

E. Meeting Schedule

1. Regular Meetings

Effective July 1, 2008, the board shall hold a regular meeting on the first Wednesday of each month At 1:30 P.M. in Room 700 of the Wake County Courthouse, 316 Fayetteville Street, Raleigh, North Carolina, with the ability to call a second or special meeting at other times, with the third Wednesday of each month reserved for this purpose. If the Chair so directs, the Board may hold its regular meeting(s) at some other convenient place in the county.

2. Special Meetings

On determining that delaying Board consideration of a matter until the next regular meeting would be contrary to the public interest, the Chair may call a special meeting of the Board at any time and place to consider that matter.

3. Cancellation and Rescheduling of Meetings

The Chair may cancel or reschedule a scheduled regular meeting on determining that there will be no business for the Board to consider at the meeting, or that so many members have indicated their probable absence at the meeting that a quorum will not be present.

F. Meeting Notice

[Many of the following provisions are pursuant to the State's open meetings law (N.C.G.S. 143-318.9 et seq.).]

1. Regular Meetings

The Secretary shall ensure that a current schedule specifying the time and place of the Board's regular meetings for the calendar year is kept on file with the Clerk to the Board of Commissioners (in the County Manager's office). The Secretary shall send any revision to that schedule to the Clerk at least seven (7) calendar days before the first meeting to be held under the revised schedule.

When distributing agendas for an upcoming regular meeting to Board members, the Secretary shall also mail or deliver the meeting's agenda to representatives of the news media and any other persons who have filed a written request for Board meeting notices with the Secretary (see Rule F.5), and to the Clerk to the Board of Commissioners (who posts the agenda on the County's meetings bulletin board, located on the ground floor of the Courthouse).

2. Special Meetings

For any Board meeting to be held at a time or place other than those shown on the filed schedule of the Board's regular meetings, the Secretary shall send a written notice of the time, place, and purpose of the meeting to the Clerk to the Board of Commissioners at least three (3) calendar days before the meeting (the Clerk posts the notice on the County's meeting bulletin board). At least forty-eight (48) hours before the time of the meeting, the Secretary shall mail or deliver the meeting's agenda (or other written notice of the meeting's time, location, and purpose) to all Board members and to representatives of the news media and any other persons who have filed a written request for Board meeting notices with the Secretary (see Rule F.5).

3. Meeting Cancellations

For cancellation of any regular meeting, the Secretary shall notify all Board members of the cancellation, and send notice of the cancellation to the Clerk to the Board of Commissioners, at least twenty-four (24) hours before the scheduled meeting time.

4. No Notice for Continuation of Recessed Meetings

If the Board recesses a regular or special meeting for which proper notice was given, after the Chair has announced in open session the time and place at which the meeting will be continued, no further notice need be given for the continued meeting.

5. Written Requests for Meeting Notice

To receive notice of Board meetings as provided in Rule F.1-2, representatives of the news media and other persons must have a valid written request for meeting notice on file with the Secretary. A notice request remains valid for the current calendar year, and must be renewed annually to remain valid. Persons other than representatives of the news media must pay an annual administrative fee of \$10.00 when filing or renewing a request for meeting notice with the Secretary [*this fee is required by G.S.143-318.12(b)(2)*].

G. Meeting Agenda

1. Preparation of the Agenda

The agenda of a Board meeting serves two important functions: it focuses Board deliberations by determining what matters will be considered at the meeting, when each matter will be considered, and the context in which each matter will be considered; and it serves as the public's only guide to what will be considered at the meeting, how will the matter be dealt with, who will participate in the discussion, and when may public comment be made. The agenda should be prepared so as to best achieve these functions.

The Planning Board Chair has the authority to determine the content and order of the agenda for Board meetings, after consultation with the Planning Director. The Chair may delegate this agenda-setting authority to the Planning Director.

At least seven (7) calendar days before the Board's next scheduled regular meeting, the Planning Director shall prepare the meeting's agenda. If the Chair retains agenda-setting authority, the Chair and Planning Director shall first discuss what matters may be appropriate to address at the meeting. Matters addressed at Planning Board meetings may include: proposed rezonings, ordinance amendments, preliminary subdivision plans for which staff review is completed, and requests for a hardship variance from Subdivision Ordinance standards; matters continued or postponed from a previous meeting; matters the Board scheduled during a previous meeting; matters for which Board review has been requested by a Committee Chair or other Board member; matters for which Board review has been requested by the Board of Commissioners; and any other matters demanding the immediate attention of the Board.

A Committee Chair who wishes to make a committee report at an upcoming Board meeting, or any Board member who wishes the Board to consider a particular matter at the upcoming meeting, should notify the Chair or the Planning Director of that wish well before the meeting date. This will allow the Chair or Planning Director (as appropriate) to consider the request when determining the meeting's agenda.

2. Order and Form of the Agenda

The agenda shall generally organize matters to be addressed at the meeting so as to best promote opportunities for effective public input and the timely and efficient performance of Board responsibilities. Items of business likely to attract the attendance of many interested persons (such as those involving notice to adjoining property owners and those involving other public notice) should generally be placed early on the agenda, thereby minimizing the time those persons must wait for consideration of the item that brought them to the meeting. The agenda should identify (by name and/or role) the leading participants at each step of the Board's review and indicate the step at which interested persons will have the opportunity to comment on the item. Appendix 2A contains an outline of an agenda with the appropriate order and form.

3. Distribution of Agenda and Materials to Board Members

At least five (5) calendar days before the meeting, the Secretary shall send each Board member a meeting agenda and all materials related to items on the agenda (e.g., petition, application, plans, staff report, written comments received).

4. Distribution of Agenda and Materials to Interested Parties

When distributing the agenda to Board members, the Secretary shall send an agenda to those persons entitled to meeting notice under Rule F, and shall send an agenda and all materials related to any development application scheduled to be considered at the meeting to the contact person designated on that application. The Secretary shall also distribute the agenda to any other interested party who has filed a written request for Board meeting notices with the Secretary, and shall include materials related to an agenda item if the notice request so asks. The Secretary shall also ensure that a reasonable number of copies of the agenda are available at the meeting for meeting attendees.

H. Quorum

A majority of the full membership of the Board must be present at a meeting if the Board is to transact any business other than to adjourn. The Chair may not call a meeting to order until such a quorum is present unless, after waiting a reasonable time past the meeting's scheduled starting time, the Chair determines that there is no hope of obtaining a quorum. In that case, the Chair shall call the meeting to order, note the lack of a quorum, and adjourn the meeting. If a quorum ceases to be present at any time during a meeting, the Chair shall note the lack of a quorum, order the cessation of business, and adjourn the meeting.

I. Conduct of Meetings

1. Open Meetings

In accord with the State's open meetings law (G.S. 143-318.9 et seq.), all official meetings of the Board shall be open to the general public - i.e., any person is entitled to attend them. An "official" Board meeting is any gathering together of, or simultaneous communication between, a majority of Board members for the purpose of considering the public business of the Board. Informal gatherings and communications such as site visits and conference telephone calls may, therefore, constitute an official meeting. A purely social gathering or communication, however, does not constitute an official meeting. The Board may exclude the public from its meeting only in certain very limited cases identified in the open meetings law.

2. Control by Presiding Officer

The Chair shall preside over all Board meetings and shall take whatever action is necessary to enforce compliance with these Rules, provide a full opportunity for public comments, focus comments and discussion on issues directly related to the item being considered, ensure polite and orderly proceedings, and otherwise promote the efficient and effective disposition of matters before the Board. Such actions may include limiting the time allotted to speakers, providing for the selection of one or two spokespersons to represent groups of persons with common interests, interrupting unnecessary repetition of statements and opinions, interrupting personal attacks or digressions into immaterial issues, and ordering an end to disorderly conduct.

If the Chair is absent, the Vice-Chair shall preside over the meeting. If both the Chair and Vice-Chair are absent, the Board members present shall elect a temporary Chair from among them to preside over the meeting.

3. Order of Business/Amendment of Agenda

Except as provided below, the Board shall conduct business in accord with the distributed agenda.

If a Board member objects to an item being on the consent agenda, the Chair shall remove the item from the consent agenda and move it to an appropriate place later on the agenda (see Rule I(5)). Otherwise, the Board must adopt a motion to suspend the rules (by a two-thirds vote or unanimous consent) before it may take up an item of business out of its proper order, or remove an item from the agenda, or add a new item to the agenda. Board members are encouraged to make any such motions during the "Petitions and Agenda Amendments" step at the beginning of the meeting whenever feasible.

If a new item of business proposed to be added to the agenda requires staff review (such as rezonings, ordinance amendments, preliminary subdivision plans, and subdivision review procedures and guidelines), involves quasi-judicial procedures (such as a request for a hardship variance from Subdivision Ordinance standards), or involves substantive matters of potential public interest (such as the Comprehensive Plan, or other major policies), the Board may add the item to the agenda only for purposes of referring it to the staff or a Board committee or scheduling it for consideration at a later meeting (as appropriate). The Board may not discuss the substance of the matter or take any final action on the item except at a meeting where the item is included on the distributed agenda. (This is intended to ensure that all Board members, the staff, the news media, and the public have prior notice that the Board may conduct discussions or take action on a substantive issue at a particular meeting.)

4. Call to Order

At the time the meeting is scheduled to begin (or at some reasonable waiting time thereafter if a quorum is not initially present), the Chair shall call the meeting to order and announce which members are absent. The Chair shall also notify persons attending the meeting of the availability of copies of the agenda.

5. Petitions and Agenda Amendments

Immediately after calling a meeting to order, the Chair shall request the submittal or presentation of any written or oral petitions unrelated to items on the agenda. (Petitions related to an agenda item shall be received or heard as part of the Board's consideration of the item, after the Chair has requested comments from interested parties.)

After receiving or hearing a petition, the Board may refer the matter to the staff or a Board committee, or schedule the matter for discussion (and action, if appropriate) at a later meeting.

At this time, the Chair shall also accept any motion by a Board member to suspend the rules to amend the agenda (see Rule I.3).

6. Consent Agenda

The consent agenda is a group of items proposed to be passed by unanimous consent, and without discussion. Consent agenda items are therefore limited to:

- (a) Applications for preliminary subdivision plan approval submitted by the Subdivision Administrator with a recommendation for approval (except applications involving a request for a hardship variance from Subdivision Ordinance standards, for which a hearing is required); and
- (b) Items reported from Board committees with a unanimous recommendation for approval of an action, in concurrence with the recommendation in any staff report on the item.

The Chair shall begin the Board's consideration of the consent agenda by asking Board members if there is any objection to unanimous consent approval of all consent agenda items subject to

the conditions recommended by the Subdivision Administrator or committee. On hearing no objection, the Chair shall declare the items approved, subject to the recommended conditions, by unanimous consent. No discussion of consent agenda items is allowed. If any member objects to unanimous consent approval of an item (whether because of disagreement with the recommended action or conditions, or simply because of a wish to discuss it further), the Chair shall declare the item removed from the consent agenda and schedule it for separate consideration at an appropriate time later on the meeting agenda.

7. Consideration of Substantive Agenda Items

a. Chair's Introduction

The Chair shall begin the Board's consideration of each agenda item by announcing the title of the item, identifying the nature of the decision involved, and briefly explaining the steps in Board consideration of the item. In doing so, the Chair shall note the opportunity for public comments and briefly note the circumstances under which the Board will receive public comment.

b. Staff Report and Recommendation

Most items considered by the Board will involve prior review by County staff. After announcing such an agenda item, the Chair shall then ask County staff to describe the nature of the matter being considered and to present the staff's findings and recommendation for Board action.

(With preliminary subdivision plans, requests for a hardship variance from Subdivision Ordinance standards, or subdivision review procedures and guidelines, the Subdivision Administrator will generally present the staff report. With rezonings, ordinance amendments, and in most other cases, the Planning Director or other staff from the Planning Department will generally present the staff report. Occasionally staff presentations will include supporting comments from other County staff, or from staff from outside agencies.)

Following the staff report, Board members may ask staff members for more information about the item and request clarification or explanation of the reasons for the staff's findings and recommendation. Board members should generally reserve questions about the details of a development proposal until after the applicant's presentation (see Rule I.7.d).

c. Committee Report and Recommendation

If the item involves a matter that has been reviewed by a Board committee, the Chair shall then ask the Committee Chair to present the committee's findings and recommendation for Board action.

The Committee Chair shall state the committee's recommendation, note the vote count on the recommendation, and particularly note those aspects in which the committee's findings and recommendation differs from the staff's. Following the committee report, Board members may question the Committee Chair about the reasons for the committee's

findings and recommendation, and may ask the staff and Committee Chair to clarify the reasons for any differences in their recommendations.

d. Presentation or Comments from the Applicant

If the item involves a rezoning, preliminary subdivision plan, or request for a hardship variance from Subdivision Ordinance standards, the Chair shall then provide the applicant an opportunity to make a presentation and respond to staff and committee findings and recommendations. The applicant, however, is not required to make a presentation.

Following the applicant's presentation (or the Chair's solicitation of applicant comments, where the applicant declines to make a presentation), Board members may ask the applicant for more information about the proposal or request the applicant's response to staff and committee recommendations, and may ask the staff and Committee Chair to clarify their recommendations in light of the applicant's comments.

e. Comments from Other Interested Persons

The Chair shall then solicit comments on the item from persons attending the meeting, asking them to first state their name and address. If the number of persons attending the meeting indicates that a large number of persons may wish to comment on an item, the Chair may first ask those wishing to comment to raise their hands. If a large number of persons wish to comment, the Chair may limit the time allotted each speaker, encourage those with common interests to select a spokesperson to represent them, or take whatever other action may be necessary to ensure a full opportunity for public comments to be heard in an efficient manner. The Chair shall determine the order in which persons may speak.

Following each interested person's presentation, Board members may ask the person about the nature of his or her interest and to clarify his or her comments.

f. Questions from Non-Board Members

Persons other than Board members who have questions related to previous presentations and comments, shall direct them to the Chair, who may then redirect them to the appropriate persons. The Chair may choose not to redirect questions that are immaterial, simply rhetorical, misleading, or unreasonably biased, or that have already been answered, or that constitute a personal attack.

g. Board Discussion

If the item involves a request for specific Board action (as with items involving an application or a staff or committee recommendation), the Chair shall invite Board members to formally discuss the item and recommended action, without the need for a prior motion. Otherwise, the Chair shall state that a motion is in order, and Board members may discuss the item only in response to a motion for specific Board action.

The Chair shall determine the order in which Board members are recognized to comment on the pending item or motion, and shall ordinarily give each member present an opportunity to comment before allowing one member to comment a second time.

Only Board members may participate in the Board's discussion of an item. If, however, the discussion raises requests for more information or questions about the previously heard presentations and comments, the Chair may relay those requests and questions to the appropriate persons and invite their response in the context of the Board discussion.

h. Board Action

Generally, the Board shall act on a substantive item by voting on a proper motion for action (see Rule I.11). In cases where staff and committee recommendations concur, the reasons for those recommendations are explicit, and Board discussion indicates no opposition to the recommendations or reasoning, the Board may adopt the recommended action or motion by unanimous consent rather than by vote (see Rule I.12).

i. Reasons for Decisions

The Board's action on any matter before it should not only be rational, but should also be perceived as rational. Therefore, any final action by the Board on substantive matters (and especially on ordinance text amendments, rezonings, preliminary subdivision plans, and requests for a hardship variance from Subdivision Ordinance standards) shall be based on express conclusions that reflect a logical connection between the information available to the Board and the standards, policies, and considerations applicable to the particular type of decision being made.

These conclusions may be expressed in the motion for action, either directly or indirectly (by reference to adoption of a resolution, or concurrence with a staff report, that includes appropriate conclusions). Or they may have been expressed during the Board discussion that immediately preceded the Board's final action. If, when restating a motion before taking a vote, the Chair is uncertain whether the reasons for the moved action are explicit to all persons attending the meeting, the Chair shall ask the member making the motion to clarify the reasons for the moved action.

8. Consideration of Routine Business Agenda Items

After the Board has disposed of substantive matters on the agenda, the Chair shall introduce, and invite Board discussion on, those routine business matters on the agenda (such as committee appointments, scheduling meetings, etc.). The Board may act on a routine business item by voting on a proper motion for action (see Rule I.11) or, where Board discussion indicates consensus on Board action, by unanimous consent (see Rule I.12).

9. Approval of Minutes

After the Board has disposed of routine business matters on the agenda, the Chair ask Board members if they wish to make any corrections and revisions to the draft Minutes of previous Board meetings, as noted on the agenda. The Board may adopt or revise Minutes by voting on a proper motion for action (see Rule I.11) or, more commonly, by unanimous consent (see Rule I.12).

10. Hearing Reports

After the Board has disposed on all other business on the agenda, the Chair shall invite the Planning Director, then Committee Chairs, to report any information they believe is likely to be of interest to the full Board - e.g., information about the disposition or status of matters previously considered by the Board, notification about matters likely to demand Board consideration in the near future, information about the status of ongoing staff or committee projects, etc. The Chair may then report any additional information to the Board. Reports should be limited to the presentation of information only, and should not involve requests for Board action unless for the purposes of referring the matter to the staff or a committee or scheduling it for consideration at a later meeting (see Rule I.3).

11. Board Action by Vote

A Board action is adopted by vote only after:

- (a) A Board member makes a proper motion for action;
- (b) Another Board member seconds the motion;
- (c) The Chair restates the motion (including making any clarifications);
- (d) All Board members have an opportunity to discuss the motion;
- (e) The Chair restates the motion again and asks for a vote;
- (f) The requisite proportion of Board members present vote in favor of the motion; and
- (g) The Chair announces the result of the vote (including the vote count).

Where discussion precedes the motion (see Rule I.7.g), the Chair need only restate the motion once, when asking for a vote.

The concurring vote of two-thirds (2/3) of members present is necessary to adopt motions that would suspend or change the Board's rules or established order of business - e.g., motions to amend the Rules, to suspend the Rules (including those to amend the agenda), to limit or close debate, to extend the limits of debate, to call for the previous question, and motions objecting to consideration of a question. The concurring vote of a majority of Board members present shall be sufficient to decide all other motions.

Unless excused from participation due to conflict of interest (see Rule K), each Board member present has a duty to vote on a motion. The abstention of any member present shall be recorded as an affirmative vote.

Votes are generally taken by voice ("ayes" and "nays"). The Chair may take a vote by a show of raised hands if the Board's discussion indicates that the vote may be close, or if, after the Chair announces a voice vote, a Board member or the Secretary questions the vote count or how members voted. The Board may not vote by secret ballot, and may vote by written ballot only if each member signs his or her ballot, the minutes record each member's vote, and the Secretary keeps the ballots available for public inspection until the minutes are approved. *[This last requirement is pursuant to the State's open meetings law (G.S. 143-318.9 et seq.).]*

In cases where there seems to be no opposition concerning routine business (such as approval of Minutes or adjournment), where questions of little importance are involved (such as minor procedural matters), or where items are on the consent agenda (such as preliminary subdivision plans recommended for approval by the Subdivision Administrator, and items where staff and committee concur in a recommendation for approval), the Board may adopt a motion or recommended action by unanimous consent rather than by vote. On determining that action by unanimous consent may be appropriate, the Chair shall ask Board members if there is any objection to unanimous consent approval of the motion or recommended action before the Board. On hearing no objection, the Chair shall declare the motion or action approved by unanimous consent. If any member of the Board objects to unanimous consent approval (whether because of disagreement with the motion or recommended action or simply a wish to discuss the matter further), the Chair shall initiate a vote on the matter (see Rule I.11) or invite further discussion, as appropriate.

The Board has not disposed of an agenda item, nor may it go on to consider another agenda item, until it has adopted (by vote or by unanimous consent) some action on the item - whether the action is final (e.g., to approve or deny, or to recommend approval or denial) or procedural (e.g., to refer to committee, to postpone, to table).

J. Minutes

The minutes of the Planning Board's meetings represent the official record of the Board's deliberations and actions. As such, they record the Board's voted-on actions and the reasons for them, communicate background on Board recommendations to the Board of Commissioners, provide perspective on issues, and provide a historical record of Board proceedings. Furthermore, the State's open meetings law requires the Board to keep full and accurate minutes of all official meetings (see Rule I.1), and the State's public records law (G.S. 132-1 et seq.) requires that those minutes be retained and be available for public inspection by any person.

The Secretary shall prepare minutes of all Board meetings (including committee meetings). The minutes shall state which members were present and absent. They shall at least briefly note the gist of staff and committee reports and recommendations, applicants' presentations, public comments, and the Board's discussion on each item. They shall also state the content of each principal motion before the Board, identify who made and seconded the motion, and record the vote on the motion (identifying the vote count and, unless the vote is unanimous, the names of those voting for or against the motion). If the motion called for or recommended adoption of an ordinance or

resolution, or the acceptance of a report, the minutes shall also include a copy of the ordinance, resolution, or report.

The Secretary shall maintain the minutes of Board meetings on file in a safe and conveniently accessible place within the Planning Department, permit them to be inspected at reasonable times by any person, and furnish certified copies of them on payment of prescribed fees.

K. Conflicts of Interest

To preserve public confidence in the integrity of the Planning Board and the County's governmental process, each Board member shall have the duty to avoid even the appearance of a conflict of interest. A Board member, therefore, shall ask the Chair to be excused from participation in any matter before the Board in which the member's impartiality might reasonably be questioned, including, but not limited to, instances where:

- a. The Board member has a personal bias or prejudice concerning any interested party, or representative of a party, to a matter before the Board; or
- b. The Board member has a close personal or financial relationship with any party or party representative; or
- c. The Board member, or a member of the member's household, has a personal or financial interest that may be substantially affected (directly or indirectly) by the Board's action on the matter.

If any other person questions the impartiality of a Board member before or during the Board's consideration of a matter, the Chair shall treat this as a request that the member be excused from participation. Any request that a Board member be excused from participation must disclose the basis for the request.

On concurring that an actual or apparent conflict of interest exists, the Chair shall excuse the member from participation in the matter. On finding that an actual or apparent conflict of interest does not exist, the Chair shall refuse the request and allow the member to fully participate in the matter. No actual or apparent conflict of interest shall be deemed to exist where the matter would similarly affect all citizens of Wake County (as generally with consideration of county-wide policies and regulations), or where the Board member's bias, prejudice, relationship, or interest is so insignificant or so remote that it is unlikely to affect the member's actions in any way.

If excused from participation in a matter, a Board member may not sit with the Board during its consideration of the matter, and may not vote on, discuss, advocate, influence, or otherwise take part in the Board's consideration of the matter, either in public or in private.

L. Outside Communications

To preserve public confidence in the fairness of Planning Board deliberations and decisions, the Board should ensure that the public and interested parties have the opportunity to know, and respond to, all information the Board considers in making its decisions. The Board should also

ensure that each Board member has the opportunity to know and consider the information available to other Board members.

When considering issues involving administrative determinations (such as a preliminary subdivision plan), or quasi-judicial determinations (such a request for a hardship variance from Subdivision Ordinance standards), the Board deals with parties who are directly affected by the Board's decision (such as the applicant and neighbors of the proposed subdivision or variance site). Each of these interested parties needs the assurance that other interested parties will not have unfair advantage in presenting their version of the relevant facts or concerns to the Board. In such cases, therefore, Board members shall avoid communicating with applicants or other interested parties about the proposal except at the Board meetings at which the proposal is being considered. If a Board member receives unsolicited communications about such a proposal outside of a Board meeting, the member has the duty to reveal the communications during the Board's consideration of the proposal. This ensures that the communicated information will become part of the record and that other Board members and interested parties will have an opportunity to consider and refute the information.

When the Board considers issues pertaining to the County as a whole or principally to the general public interest (such as the Comprehensive Plan, the Land Use Plan, ordinance text amendments, and comprehensive rezonings), it often finds access to a broad range of public input helpful in making a decision on the issue. In such cases, therefore, Board members may communicate with interested persons outside of the meetings at which the issue is being considered, but each member has the duty to reveal the general nature and scope of relevant information and opinions gleaned from such communications during the Board's consideration of the issue. To ensure that each Board member's decision is based on the full range of information and public opinion available to the Board, members should avoid committing themselves to a position on the issue during any outside communications.

When the Board considers rezoning petitions, it is considering a legislative determination, but one that generally pertains to a specific parcel of land, and thus directly affects the interests of specific parties. Because rezonings are legislative determinations, and the Planning Board's role is only advisory, Board members are not required to avoid outside communication about a rezoning proposal. To further foster the appearance of fairness in their deliberations, however, Board members are encouraged to do so.

M. Committees

1. Standing Committees

a. Code and Operations Committee

The Chair shall annually appoint at least four (4) Board members to the Code and Operations Committee, to serve a one-year term, and until the Chair appoints a successor. This committee is responsible for reviewing all issues referred to it by the Board that concern proposed amendments to the text or maps in the County's development-related ordinances and the Board's administrative procedures and policies (changes to these Rules of Procedure, the Board's fiscal budget, training needs, etc.), and for submitting a

recommendation for action on those matters to the full Board. It may also respond to staff requests for advice on general matters relevant to development regulations.

b. Land Use and Subdivision Committee

The Chair shall annually appoint at least four (4) Board members to the Land Use and Subdivision Committee, to serve a one-year term, and until the Chair appoints a successor. This committee is responsible for reviewing all issues referred to it by the Board concerning the Land Use Plan, conducting the initial Board review of all applications for preliminary subdivision plan approval for which the Subdivision Administrator has recommended disapproval, as well as any applications for preliminary subdivision plan approval referred to it by the full Board. The committee is responsible for submitting a recommendation for action on those matters to the full Board. It may also respond to staff requests for advice on general matters relevant to land use planning or subdivision review.

c. Transportation Committee

The Chair shall annually appoint at least four (4) Board members to the Transportation Committee, to serve a one-year term, and until the Chair appoints a successor. This committee is responsible for reviewing all issues referred to it by the Board concerning the Transportation Plan (including the Collector Street Plan and implementation efforts), and for submitting a recommendation for action on those matters to the full Board. The committee may also choose to meet in joint session with other committees regarding matters that involve significant transportation issues (including site plans, subdivisions, and Land Use Plan Amendments). It may also respond to staff requests for advice on general matters relevant to transportation planning.

2. Select Committees

If the Board proposes to refer a matter to a committee for further investigation and review, but the matter is not within the purview of one of the standing committees, the Board may refer it to a select committee appointed for a particular purpose. If the Board makes such a referral, the Chair shall appoint Board members to serve as members of the select committee.

3. Standing Committee Appointments

The Chair shall make annual appointments to standing committees at the Board's first regular meeting in May or at the Board's next regular meeting if no meeting is held in May. The Secretary shall notify Board members of the upcoming annual appointments at least thirty (30) days before the meeting at which the appointments are to be made.

4. Committee Officers

The Chair may specifically designate particular committee appointees to serve as the Committee's Officers. Otherwise, the first member appointed to a committee shall serve as its Committee Chair and the second member appointed shall serve as its Committee Vice-Chair. A committee, however, may elect another Committee Chair and Committee Vice-Chair if it wishes. A Committee Chair and Vice-Chair shall have all the powers and duties authorized for the Board

Chair and Board Vice-Chair, respectively, under these Rules, but only in respect to the particular committee.

5. Procedural Rules

All committees of the Board shall be subject to Rules E - L, in the same manner as those Rules apply to the full Board, except that Rule E.1 (concerning the time and place of the Board's regular meetings), Rule I.6 (concerning consent agendas), and Rule I.7.c (concerning committee reports at a Board meeting) do not apply to committees. A committee may, by a two-thirds (2/3) vote, adopt supplemental procedural rules to apply to the committee.

N. Orientation and Training

1. Orientation of New Members

The Planning Director shall meet with new Board members as soon as possible after their appointment to prepare them for effectively serving on the Planning Board. At that meeting, the Planning Director shall provide each new member a copy of the Planning Board Handbook (including these Rules), all ordinances the Board typically deals with, and the Comprehensive Plan and other major statements of the County's growth management and land development policies. The Planning Director shall also generally explain the County's growth management and land development policies, the relationship between the Board and County staff, and the organization, duties and responsibilities, procedural rules, and legal constraints under which the Board operates.

2. Continuing Education

a. General

Board members are encouraged to expand their knowledge and understanding of planning issues by reading planning-related literature and attending planning conferences, courses, seminars, and workshops.

b. Budget

Before the Planning Director prepares the annual Planning Department budget request, the Board shall review its fiscal needs for training (including magazine subscriptions and attendance at planning-related conferences, courses, seminars, and workshops) and discuss with the Planning Director the extent to which they may be incorporated in the Department's budget request.

c. Approval of Attendance at Conferences, Etc.

County funds available for training of Board members are generally limited. A Board member wishing to use funds from the Planning Board's budget for expenses associated with attending a planning-related conference, course, seminar, or workshop for which sufficient funds have not already been specifically budgeted shall present a request for such

funding to the Board. On receiving the request, the Chair may refer the request to the Code and Operations Committee for its review and recommendation back to the full Board. In deciding whether or not to approve the request, the Committee and the Board shall consider the following:

- i. The amount of funding requested compared to the amount of uncommitted budget funding available - i.e., how much funding would be left to meet the training needs of other members;
- ii. The relevance of the subject matter of the conference, course, seminar, or workshop to the Board's duties and concerns;
- iii. The member's need for the requested training - i.e., how great is the need, due to a lack of previous training or experience (or how little is the need, due to substantial previous training or experience or due to the short time remaining in the member's term);
- iv. The amount of funding the member has already used for training; and
- v. The seniority of the member - i.e., all other considerations being equal, the requests of members longest on the Board should have priority over other members.

O. Reference to Robert's Rules of Order

To resolve procedural questions not addressed by these Rules, the Board shall refer to the latest edition of Robert's Rules of Order.

P. Amendments

These Rules may, within the limits allowed by law, be amended at any time by an affirmative vote of at least two-thirds (2/3) of the Board's membership, provided that the amendment is first presented to the Board in writing at a regular or special meeting held at least forty-eight (48) hours before the meeting at which the vote is taken.

Appendix 2A. Outline of Planning Board Agenda

SAMPLE AGENDA

WAKE COUNTY PLANNING BOARD

**1:00 P.M., [DATE]
ROOM 700, WAKE COUNTY COURTHOUSE
316 FAYETTEVILLE STREET MALL
RALEIGH, NORTH CAROLINA**

[Notice of any Planning Board Committee meeting occurring on the same day, including the time and location of the meeting, as well as the items to be discussed by the Committee.]

1. **Call to Order** - *[Name of Chair]*, Chair

2. **Petitions** - *[Name of Chair]*, Chair *[This is where Board members, staff, or persons attending the meeting may submit or present written or oral requests unrelated to items on the agenda, including requests to amend the agenda to add or re-order items. A new item involving substantive matters of potential public interest may be added to the agenda only for purposes of referring it to the staff or a committee or scheduling it for consideration at a later meeting.]*

3. **Consent Agenda** - *[Name of Chair]*, Chair *[These are items proposed to be approved by unanimous consent - without discussion, and in accord with a submitted recommendation. They are limited to preliminary subdivision plans recommended for approval by the Subdivision Administrator and not involving a variance, and items where a Planning Board committee unanimously recommends approval and concurs with the staff recommendation. If any Board member objects to unanimous consent approval of any item below (whether because of disagreement with the recommendation or a wish to discuss the matter further), the Chair will declare the item removed to an appropriate place on the agenda for separate discussion.]*
 - a. *[File number and name of item]: [Description of item and staff/ committee recommendation]*

[Continue with b., etc. if necessary, in the same format]

4. **Rezoning** *[These are petitions to amend the County's Zoning Map to reclassify land from one zoning district to another, thus subjecting the site to a different set of zoning regulations. The Planning Board reviews these petitions in an advisory capacity, recommending that the Board of Commissioners either approve or deny the petition. The Board must base its recommendation on whether or not the proposed rezoning is consistent with the County's Land Use Plan and otherwise advances the public health, safety, and general welfare.]*
 - a. ZP-[#]: *[Description of proposed rezoning and site]*
 - i. Staff Report and Recommendation - *[Staff member's name]*, *[Staff member's position title]*
 - ii. Committee Recommendation *[if applicable]* - *[Name of Committee Chair]*, Code and Operations Committee Chair
 - iii. Presentation or Comments from Applicant

- iv. Comments from Other Interested Parties
- v. Board Discussion
- vi. Board Conclusions and Recommendation to Board of Commissioners

[Continue with b., etc. if necessary, in the same format]

5. Ordinance Text Amendments [These are proposals to amend the text of the County's Zoning Ordinance or Subdivision Ordinance, to change the regulations, procedures, or other provisions applicable to development. The Planning Board reviews these proposals in an advisory capacity, recommending that the Board of Commissioners either approve or deny the proposed amendment. The Board must base its recommendation on whether or not the proposed amendment is consistent with the County's Land Use Plan and otherwise advances the public health, safety, and general welfare.]

- a. OA[*[fy]*]/[#]: [*Descriptive title*] [*Description of proposed amendment*]
 - i. Staff Report and Recommendation - [*Staff member's name*], [*Staff member's position title*]
 - ii. Committee Recommendation [*if applicable*] - [*Name of Committee Chair*], Code and Operations Committee Chair
 - iii. Comments from Interested Parties
 - iv. Board Discussion
 - v. Board Conclusions and Recommendation to Board of Commissioners

[Continue with b., etc. if necessary, in the same format]

6. Other Public Concern Matters [These are other items of business involving public notice, or having a wide public concern likely to attract public attendance (such as the Comprehensive Plan, the Thoroughfare Plan, extraterritorial jurisdiction requests, Community Development Block Grant and Housing and Community Revitalization program matters, etc.)]

- a. [*File identification*]: [*Descriptive Title*] [*Description of proposed action*]
 - i. Staff Report and Recommendation [*if applicable*] - [*Staff member's name*], [*Staff member's position title*]
 - ii. Committee Recommendation [*if applicable*] - [*Name of Committee Chair*], [*Name of Committee Chair*]
 - iii. Comments from Interested Parties
 - iv. Board Discussion
 - v. Board Action

[Continue with b., etc. if necessary, in the same format]

7. Preliminary Subdivision Plans (including associated variances) [These are applications for approval of preliminary plans for the division of land into lots, which are reviewed for compliance with standards set forth in the County's Subdivision Ordinance. If the plan complies with all applicable standards, the Board must approve it; if not, the Board must either deny it or approve it with conditions specifying actions that will ensure such compliance. These applications may be accompanied by applications for hardship variances from the Subdivision Ordinance's standards,

which must be decided before review of the preliminary subdivision plan. The Planning Board may grant a variance only after it hears evidence as to hardships due to the land or parcel, makes findings of fact supported by the presented evidence, and, based on those findings of fact, concludes that (a) strict application of the relevant standard would prohibit subdivision of the parcel in accord with the spirit and intent of the Subdivision Ordinance because of extraordinary circumstances peculiar to the parcel; (b) the variance is necessary to avoid extraordinary and unnecessary hardship; and (c) the variance will not result in detriment to the public interest or violate the intent and purpose of the Subdivision Ordinance. The applicant bears the burden of presenting sufficient evidence to allow the Board to make findings of fact and reach the required conclusions.]

a. S[#]-[yr]: Hardship Variance and *[if applicable]* Preliminary Subdivision Plan for *[Subdivision name]* (only if Subdivision Committee has completed its review) *[if scheduled for review by Subdivision Committee on same day]: [Description of proposed subdivision and site]*

i. Variance Request *[if applicable]*

- a. Introduction to Variance Request - *[Name]*, Subdivision Administrator
- b. Testimony and Presentation of Evidence re Hardship by Applicant
- c. Testimony and Presentation of Evidence by Other Interested Parties
- d. Board Discussion
- e. Board Findings of Fact
- f. Board Conclusions re Hardship and Action on Variance Request

ii. Proposed Preliminary Subdivision Plan

- a. Staff Report and Recommendation - *[Name]*, Subdivision Administrator
- b. Committee Recommendation *[if applicable]* - *[Name]*, Subdivision Committee Chair
- iii. Presentation or Comments from Applicant
- iv. Comments from Other Interested Parties
- v. Board Discussion
- vi. Board Conclusions and Action on Proposed Preliminary Plan

[Continue with b., etc. if necessary, in the same format]

8. Other Substantive Matters *[These are other substantive matters not involving public notice and generating little public concern (such as requests for comments on or endorsement of concepts, information only items, etc.)]*

a. *[File identification]: [Descriptive Title] [Description of proposed action]*

- i. Staff Report and Recommendation *[if applicable]* - *[Staff member's name]*, *[Staff member's position title]*
- ii. Committee Recommendation *[if applicable]* - *[Name of Committee Chair]*, *[Name of Committee]* Chair
- iii. Comments from Interested Parties
- iv. Board Discussion
- v. Board Action

[Continue with b., etc. if necessary, in the same format]

9. Routine Business - *[Name of Chair]*, Chair *[These are routine business matters of the Board (such as appointments, scheduling, etc.)]*

10. Approval of Minutes for *[Meeting date]* **Meeting** - *[Name of Chair]*, Chair *[These are usually adopted by unanimous consent]*

11. Reports - *[Name of Chair]*, Chair *[These are reports unrelated to items of business on the agenda - i.e., matters concerning disposition of matters previously considered by the Board, matters likely to demand Board consideration in the near future, status of ongoing projects, etc.]*

- a. Planning Director's Report - *[Name]*, Planning Director
- b. Subdivision Administrator's Report - *[Name]*, Subdivision Administrator
- b. Committee Reports
- c. Chair Report - *[Name of Chair]*, Chair

12. Adjournment - *[Name of Chair]*, Chair

Chapter 3 Typical Planning Board Proceedings

A. Zoning Ordinance Amendments

These include "text amendments" (to add, delete, or change provisions in the County's Zoning Ordinances) and "rezonings" (amendments changing the zoning district boundaries on the Zoning Map).

1. Review Procedure

Proposals to amend the Zoning Ordinance text may be initiated directly by the Board of Commissioners (by adopting a motion directing County staff to consider the proposal) or the Planning Director (by preparing a petition for the proposal). They may be initiated indirectly by the Planning Board, Board of Adjustment, or any resident of, or owner of property in, Wake County by submitting a request for consideration of the proposal to the Planning Director (who may - but need not - prepare a petition for the proposal) or to the Board of Commissioners, (who may - but need not - direct the Planning Director to prepare a petition for the proposal).

Rezoning proposals may be initiated by the Commissioners, Planning Director, Planning Board, and Board of Adjustment in the same manner as text amendments, and by any resident of, or owner of property in, Wake County by submitting an amendment petition to the Planning Director. Proposals to rezone land to a Conditional Use District may be initiated only by the owner(s) of the land.

The Planning Director reviews the amendment petition and submits a staff report, including a recommendation for approval or denial of the petition, to the Planning Board. The Planning Board hears presentations of comments and arguments concerning the petition from all interested parties, then discusses the proposed amendment and makes a recommendation for its approval or denial for submittal to the Board of Commissioners. The Planning Board sometimes refers a petition to its Code and Operations Committee for more detailed discussion and a recommendation to the full Board.

The Planning Director submits the recommendations of the staff and the Planning Board to the Board of Commissioners at its public hearing on the petition. (The Planning Board Chair typically presents the Board's recommendation to the Commissioners.) The Board of Commissioners may approve or deny the petition, refer it to its Community Development Committee, or refer it back to the Planning Director and Planning Board for further consideration.

An amendment petition may only be revised at two points in this process - after the Planning Board's review (just as it is about to make its recommendation), or after the Commissioners' review (just as it is about to take final action). When a motion for Board recommendation is made, therefore, the Chair must remember to ask the petitioner if he or she wishes to revise the petition before the Board votes [*Note: the Planning Director is always the petitioner with text amendments*]. If the petitioner asks to revise the petition (whether before the Planning Board or the Commissioners), review of the petition automatically starts over at the beginning of the process (although review usually proceeds faster because of familiarity with the nature of the proposal).

2. Review Criteria

The Zoning Ordinance requires any review of a proposed text or map amendment - whether by the staff, the Planning Board, and the Board of Commissioners - to be based on consideration of whether the proposed amendment:

- a. Is consistent with the Wake County Land Use Plan; and
- b. Otherwise advances the public health, safety, and general welfare.

The Land Use Plan (LUP) consists of a document entitled "Wake County Land Use Plan" that describes and establishes a set of objectives for each of 7 different planning areas: Municipal; Perimunicipal; Rural; Water Supply Watershed; Special Watershed; Special Highway; and Airport. The LUP document also establishes some general policies for each planning area.

Because the LUP's standards are explicit, the LUP should be the principal guide to the Planning Board's discussions and actions concerning Zoning Ordinance amendments. The Board, however, should also look beyond the LUP and also consider whether the proposed amendment, even if consistent with the LUP, advances the best interests of public health, safety, and general welfare. This very general criterion calls for consideration of a wide range of issues, including, but not limited to, the amendment's potential impacts on:

- a. The natural environment - i.e., how development allowed by the amendment might affect air quality, water quality (particularly within water supply watersheds and groundwater recharge areas), flooding, erosion, important natural areas (see the "Inventory of the Natural Areas of Wake County"), etc.;
- b. Important natural resources - i.e., how the amendment or development allowed by the amendment might threaten or enhance the continued availability and efficient use of finite natural resources for agriculture, forestry, mining, etc.;
- c. The transportation system - i.e., whether any additional traffic generated by development allowed by the amendment can be safely and efficiently accommodated by area roads and other transportation facilities (and including how the amendment might use or unduly burden existing or proposed public transportation);
- d. The provision of utilities and services - i.e., whether any additional demands for water supply, sewage disposal, electricity, refuse collection, fire and police protection, education, health care, recreation, etc. generated by development allowed by the amendment can be safely and efficiently accommodated by public, community, or private utility and service systems (and including how the amendment might affect the cost burdens on local government in providing such services);
- e. The provision of affordable and convenient housing - i.e., how the amendment might affect people's ability to find affordable housing reasonably accessible to their place of employment;

- f. The local economy - i.e., how the amendment or development allowed by the amendment might affect employment opportunities and the general health of the local economy;
- g. Important historic resources - i.e., how development allowed by the amendment might threaten or enhance the continued existence and integrity of resources of historic, architectural, archeological, or cultural significance;
- h. Neighboring development - i.e., how development allowed by the amendment might affect living or working conditions in neighboring areas (including whether development allowed by the amendment might deter or enhance the appropriate development or conservation of neighboring property; and
- i. Community function, character, and attractiveness - i.e., how the amendment might enhance the development of urban communities that contain the attractive and functional mix of land uses needed to meet the needs of future populations and avoid adverse impacts, the conservation of rural countryside that contains important natural resources and provides open space transitions between urban areas (see "The Wake County Open Space Preservation Strategy"), and the preservation of scenic areas and the general visual attractiveness of Wake County.

3. Legal Considerations

Because amendments to the Zoning Ordinance are considered legislative actions (as opposed to administrative or quasi-judicial actions), the Board has broad discretion in reviewing proposed amendments. This discretion is, however, subject to important constitutional limitations.

First, the County must have the authority to regulate in the manner proposed in the amendment. Local governments in North Carolina have no inherent powers, but are limited to those granted by the State constitution or enabling legislation. Most of the legislation authorizing county zoning regulations is set forth in Chapter 153A of the North Carolina General Statutes.

Second, the amendment must result in a regulation or rezoning decision that is sufficiently clear and precise to allow its administrative application and to give an individual exercising ordinary common sense a reasonable opportunity to comply with it. This means that text amendments regulating an activity must contain explicit standards or criteria that are capable of being clearly and precisely interpreted and applied in accord with commonly understood meanings and practices within the law of zoning.

Third, the amendment must result in a regulation that advances a legitimate governmental purpose. This means that the regulation or rezoning must serve a clear purpose that is described in the State enabling legislation, that is described in the County's Land Use Plan, or that protects or advances the public health, safety, and general welfare. It also means that there must be an evident link between the regulation or rezoning and the public purpose(s) it serves. The purpose of a regulation may be described in the regulation itself, in the ordinance by which it is adopted (usually as a "Whereas.." statement), in reports and memoranda on the proposed regulation, or in a comprehensive plan.

Fourth, the amendment must not result in the "taking" of private property without compensation. This means that the regulation or rezoning must leave owners of property to which it is applied one or more uses that are economically viable. (It does not mean the regulation or rezoning may not result in a reduction in a property's value.)

Fifth, the County must follow established procedures when reviewing, holding a hearing on, and deciding an amendment petition. This means that the Planning Board's review of an amendment petition must comply with all applicable procedures set forth in the applicable ordinance and in the Board's Rules of Procedure (particularly those requiring the Board to base its recommendations on express conclusions as to whether the amendment is consistent with the Land Use Plan and otherwise advances the public health, safety, and general welfare).

B. Preliminary Subdivision Plans

1. Review Procedure

Applications for preliminary subdivision plan approval are submitted to the Subdivision Administrator. The Subdivision Administrator reviews the application and prepares a staff report including a recommendation for either approval (with or without conditions) or disapproval of the preliminary plan. If the recommendation is for approval, and the application does not involve any request for a hardship variances from Subdivision Ordinance standards, the Subdivision Administrator submits the application and staff report to the full Planning Board as part of a Board meeting's consent agenda. If the recommendation is for approval, but the application involves a request for a hardship variance, the Subdivision Administrator submits the application to the full Planning Board as part of the Board meeting's regular discussion agenda. If the recommendation is for disapproval, the Subdivision Administrator submits the application and staff report directly to the Planning Board's Subdivision Committee.

If the application is on a consent agenda, and is not removed pursuant to a member's request, it is approved as part of the Board's approval of the consent agenda (with no discussion), and subject to any conditions recommended by the Subdivision Administrator. If, in response to the request of any Board member, the application is removed from the consent agenda and becomes a discussion item, the Planning Board hears presentations from all interested parties, then discusses the plan, and decides whether to approve it, approve it with conditions, or disapprove it. The Board sometimes refers an application to the Subdivision Committee for more detailed discussion and a recommendation to the full Board.

If the application is submitted directly to the Subdivision Committee, or if the full Board refers an application to the Subdivision Committee, the Committee hears presentations from all interested parties, then discusses the plan, and decides whether to recommend its approval, its approval with conditions, or its disapproval. The application, along with the staff report and Committee recommendation, is then submitted to the full Planning Board as a discussion item. The Board hears presentations from all interested parties, then discusses the plan, and decides whether to approve it, approve it with conditions, or disapprove it.

If the application involves a request for a hardship variance from one or more Subdivision Ordinance standards, the Planning Board holds an informal hearing to receive factual evidence relevant to the criteria for granting variances (see 2. below), discusses the presented evidence, makes findings as to what facts the evidence shows, reaches conclusions as to whether or not the evidence is sufficient to show that the request meets the hardship criteria, and decides whether to grant the variance request, grant it subject to conditions, or deny it. The Board then discusses and decides the application based on its decision about the variance request.

[Note: The Planning Board's approval of a preliminary subdivision plan remains valid for two years, during which time the subdivider may obtain the Subdivision Administrator's approval of a construction plat and final plat(s) that are consistent with the approved preliminary plan. Construction plat approval authorizes the subdivider to begin the construction of the proposed roads, utilities, and other improvements. Final plat approval authorizes the subdivider to record a plat of the proposed lots and to begin selling them. Construction or installation of all approved improvements generally must be completed before a final plat is approved (exceptions are allowed where the subdivider provides a financial surety guaranteeing completion or agrees to limits on building permit issued pending completion).

2. Review Criteria

The Subdivision Ordinance requires any review of an application for preliminary subdivision plan approval - whether by the staff or the Planning Board - to be based on consideration of whether the proposed preliminary plan shows a subdivision that complies with all applicable standards in the Subdivision Ordinance. Appendix 3A contains a checklist of subdivision standards generally applicable at the preliminary plan stage.

Before the Planning Board can grant any request for a hardship variance from Subdivision Ordinance standards, it must conclude that evidence presented to it at the variance hearing is sufficient to allow it to reach all of following conclusions:

- (a) That strict application of the standard in question would prohibit a subdivision that is otherwise in accord with the spirit of and intent of the Subdivision Ordinance;
- (b) That such prohibition is due to extraordinary conditions or circumstances peculiar to the land proposed to be subdivided (rather than peculiar to the requestor);
- (c) That the requested variance is necessary to avoid extraordinary and unnecessary hardship; and
- (d) That the requested variance will not result in detriment to the public interest not violate the intent and purpose of the Subdivision Ordinance.

3. Legal Considerations

Preliminary subdivision plan review is considered an administrative review. If the information presented to the Planning Board shows that a proposed plan meets all applicable subdivision standards, the Board must approve the plan as submitted. If such information shows that the

proposed plan fails to meet any applicable standard, the Board must either disapprove it or approve it subject to conditions requiring actions to correct the deficiency.

Approval with conditions is an appropriate action where conditions clearly state specific actions necessary to correct a plan's noncompliant feature(s) - i.e., minor design changes to the plan that can be clearly visualized and that have little or no interrelationship with other design elements shown on the plan. If Board members cannot determine the full extent and impact of all suggested conditions of plan approval, the Board should disapprove the plan rather than approve it with general, open-ended conditions that could lead to misunderstandings.

With a request for a hardship variance from Subdivision Ordinance standards, the requestor bears the burden of presenting sufficient evidence to show that the variance criteria are met. If the requestor presents no evidence at the variance hearing supporting compliance with the criteria, or if the evidence presented is insufficient to support compliance with all of the criteria, or if the evidence presented in favor of compliance with the criteria is outweighed by evidence presented in opposition to compliance with the criteria, then the Planning Board has no choice but to deny the variance request.