

## Attachment 07: Proposed Edits of Article 8. Administration, Procedures, and Enforcement

### Sec. 18-804. Review and Decision-Making Authorities for **Single-Unit** Residential Applications.

Application/Review Process Type			REVIEW & DECISION-MAKING AUTHORITIES												Application Reference
	Pre-Application Meeting	Public Notification	Dir. of Planning and Zoning	Dir. of Public Works	Dir. of Parks & Recreation <del>DPR</del>	Zoning Administrator	Town Attorney	Fairfax County	Brd. of Architectural Rev.	Windover Hts. Brd. of Rev.	Planning Commission	Brd. of Zoning Appeals	Town Council	Fairfax Co. Circuit Court	
√ = REQUIRED / R = REVIEW / D = DECISION / A = APPEAL / PH = PUBLIC HEARING															
<del>Board of Architectural Review Certificate of Approval (Duplex, Townhouse &amp; Multi-Unit only)</del>	-	-	R	-	-	R	-	-	D	-	-	-	A	-	<del>§ 18-824</del>
<del>Condominium Conversion</del>	-	-	R	-	-	R	R	R	-	-	-	-	-	-	<del>§ 18-825</del>
<del>Modification of Requirements (Duplex, Townhouse &amp; Multi-Unit only)</del>	√	√	R	R	R	R	-	R	-	-	R	-	D	-	<del>§ 18-830</del>
Site Plan, Infill Lot Plan and Lot Grading Plan	-	-	R D	R	R	D R	-	-	-	-	-	A	-	A	§ 18-836.10
Subdivision, Lot Line, and Boundary Adjustment, and Lot Consolidation	√	√	R D	R	R	R	R	-	-	-	R	-	D	D A	Article 6

**Sec. 18-805. Review and Decision-Making Authorities for Non-Residential, **Multi-Unit**, and Mixed-Use Applications.**

Application/Review Process Type			REVIEW & DECISION-MAKING AUTHORITIES												Application Reference
	Pre-Application Meeting	Public Notification	Dir. of Planning & Zoning	Dir. of Public Works	Dir. of Parks & Recreation	Zoning Administrator	Town Attorney	Fairfax County	Brd. of Architectural Rev.	Windover Hts. Brd. of Rev.	Planning Commission	Brd. of Zoning Appeals	Town Council	Fairfax Co. Circuit Court	
√ = REQUIRED / R = REVIEW / D = DECISION / A = APPEAL / PH = PUBLIC HEARING															
Church Street Vision – Master Sign Plan, Signs	-	-	R	-	-	R	-	-	D	-	-	-	A	-	§ 18-821
Condominium Conversion	-	-	R	-	-	R	R	R	-	-	-	-	-	-	§ 18-825
Site Plan, Minor	√	-	<del>R</del> D	R	R	<del>D</del> R	-	-	-	-	-	<del>A</del>	-	A	§ 18-836.4
Site Plan, Major	√	-	<del>R</del> D	R	R	<del>D</del> R	-	-	-	-	-	<del>A</del>	-	A	§ 18-836.5
<del>Site Plan, Avenue Center Amenity Overlay</del>	√	-	R	R	R	R	-	-	-	-	-	-	D	-	<del>§ 18-836.6</del>
Site Plan, Church Street Vision	√	√	R	R	R	R	-	-	-	-	-	-	D	-	<del>§ 18-836.7</del>
Site Plan, Corporate Park	√	√	R	R	R	R	-	-	-	-	R	-	D		<del>§ 18-836.8</del>
Site Plan, Parks Zones	-	√	R	R	R	R	-	-	-	-	R PH	-	D PH	-	<del>§ 18-836.9</del>
Subdivision, Lot Line, and Boundary Adjustment, and Lot Consolidation	√	√	<del>R</del> D	R	R	R	R	-	-	-	R	-	D	A	Article 6

**Sec. 18-806. Director of Planning and Zoning.**

1. **Designation.** The Director of Planning and Zoning, as appointed by the Town Manager, shall administer and enforce provisions of these zoning regulations as specified herein. In the performance of these duties, the Director of Planning and Zoning may request the assistance of any appropriate officer or agency of the Town. The Director of Planning and Zoning shall oversee and supervise the work of the Zoning Administrator.
2. **Authority and Powers.** Other duties as set forth in Code of Vienna, Town of Vienna administrative procedures, and as determined by the Town Manager.

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3. **Final Decisions.** The Director of Planning and Zoning ~~has the authority to review and make recommendations on applications regulated in this Chapter but has no~~ final decision authority on subdivision and site plan ~~any~~ applications.

### **Sec. 18-812. Zoning Administrator.**

1. **Designation.** The Zoning Administrator, as appointed by the Director of Planning and Zoning with the consent of the Town Manager, shall administer and enforce these zoning regulations, except as otherwise specified. In the performance of these duties, the Zoning Administrator may request the assistance of any appropriate officer or agency of the Town.
2. **Authority and Powers.**
  - A. In accordance with § 15.2-2286 of the Code of Virginia, 1950, as amended, the Zoning Administrator shall be responsible for the administration, interpretation, and enforcement of the provisions of this Article, unless otherwise specified. The Zoning Administrator shall perform all required duties and act in accordance with the terms, purposes, intent and spirit of this Chapter.
  - B. The Zoning Administrator shall administer the inspection of premises, the issuance of notices of zoning violations, and the issuance of zoning and occupancy permits.
  - C. No zoning permit or certificate of occupancy shall be issued by the Zoning Administrator unless there is compliance with the provisions of this Code.
  - D. In case any building is erected, constructed, reconstructed, altered, repaired, converted, occupied, or any land is used in violation of this Code, the Zoning Administrator is authorized and directed to institute appropriate action that will bring a remedy to such violation such that compliance is achieved.
3. **Final Decisions.** Except as otherwise specified herein, the Zoning Administrator shall be responsible for final decisions regarding the following:
  - A. Certificates of Occupancy (§ 18-823).
  - B. Driveway Permits (§ 18-826).
  - C. Fence Permits (§ 18-828).
  - D. Home-Based Business Permits (§ 18-829).
  - E. Outdoor Dining Permits (§ 18-831).
  - F. Patio and Sports Court Permits (§ 18-832).
  - ~~G. Site Plans for Single Unit Infill and Lot Grading (§ 18-836.10).~~
  - ~~H. G.~~ Temporary Use Permits (§ 18-838).
  - ~~H. H.~~ Zoning Administrator Determinations (§ 18-841).
4. **Appeals.** Per State Code § 15.2-2301, as amended, any zoning applicant or any other person who is aggrieved by a decision of the Zoning Administrator made pursuant to the provisions of § 15.2-2299 may petition the Board of Zoning Appeals for review of the decision of the Zoning Administrator. See § 18-820 for process.

### **Sec. 18-816. Planning Commission.**

1. **Purpose.** The Planning Commission is a public body established by the Town Council pursuant to § 15.2-2210 of the Code of Virginia, 1950, as amended. The Commission's primary role is to serve as an advisory body to the Town Council, to promote the orderly development of the Town and to accomplish the planning, zoning, and land subdivision and development objectives set forth in State law and the Town Code.
  2. **Establishment.** The Planning Commission is established pursuant to the provisions of § 15.2-2210 of the Code of Virginia, 1950, as amended.
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3. **Membership.** The Planning Commission shall consist of not less than five and not more than fifteen residents of the Town, appointed by the Town Council, for a term of two years or to fill the unexpired term of a vacant seat on the commission.
  4. **Meetings.** The Planning Commission shall publish a schedule of meetings for the year. Special meetings of the Planning Commission may be scheduled at the request of the Director of Planning and Zoning and the approval by the Commission chairperson.
  5. **Powers.** In addition to those powers and duties established for the Planning Commission in § 15.2-2210 and § 15.2-2217 of the Code of Virginia, 1950, as amended, and Chapters 13 and 18 of the Code of Vienna, or as otherwise lawfully assigned, the Planning Commission shall have the following powers and duties:
    - A. Prepare and recommend a comprehensive plan, including amendments to the existing comprehensive plan (§ 15.2-2223).
    - B. Provide recommendations regarding proposed amendments to zoning.
    - C. Provide recommendations on proposed Rezoning, Modifications of ~~Site Plan~~ Requirements, ~~Avenue Center Amenity Overlay~~, and Conditional Use Permits.
    - D. Conduct Public Hearings.
    - E. Request Reports and Studies.
  6. **Final Decisions.** The Planning Commission has no final decision authority.

#### **Sec. 18-817. Town Council.**

1. **Purpose.** The Town Council is the legislative body of the Town of Vienna.
2. **Establishment.** The Town Council is established in accordance with Code of Virginia, § 15.2-1400 et seq., and the Town Charter.
3. **Final Decisions.** Except as otherwise specified herein, the Town Council shall be responsible for final decisions regarding the following, related to this Chapter:
  - A. Modifications of Requirements (§ 18-830).
  - B. Proffer Amendments (§ 18-834).
  - C. Rezoning, Text, and Map Amendments (§ 18-835).
  - ~~D. Site Plans, Avenue Center Amenity Overlay (§ 18-836.6).~~
  - ~~E. Site Plans, Church Street Vision Incentive Overlay (§ 18-836.7).~~
  - ~~F. Site Plans, Corporate Park (§ 18-836.8).~~
  - ~~G. Site Plans, Parks Zones (§ 18-836.9).~~
  - ~~H. D. Trailer, Temporary Use (§ 18-838).~~
  - ~~I. E. Trailer, Public Use or Temporary Residential (§ 18-839).~~
  - ~~J. F. Appeals of final decisions of the Board of Architectural Review (§ 18-821).~~
  - ~~K. G. Appeals of final decisions of the Windover Heights Board of Review (§ 18-840).~~

#### **Sec. 18-822. Building Permit.**

1. **Building Permit Required.** No excavation shall be commenced, no wall, structure, premises, or land used, no building or part thereof built, constructed, or altered, no building shall be moved, no sign shall be erected, repaired, or repainted until application has been made and the proper approval obtained from the Zoning Administrator and Fairfax County in accordance with the provisions of this Code and said permit has been posted at the building site in plain view from the street.
  2. **Types of Building Permits.** The Town of Vienna reviews building permit applications within the following categories:
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- A. **Small-Scale Residential Building Permit.** Permit applications for properties zoned for single-unit detached residences, **and individual** duplexes and **individual** townhouses that propose to disturb less than 2,500 square feet of land.
  - B. **Large-Scale Residential Building Permit.** Permit applications for properties zoned for single-unit detached residences and duplexes that propose to disturb 2,500 square feet of land or more for structural additions, landscaping, pools, infill lot redevelopment, and subdivisions development. **See § 18-836.10, Infill Lot Site Plan.**
  - C. **Commercial Building Permit.** Permits for interior and exterior modifications to all commercial, industrial, institutional, and multi-unit residential properties and structures. **Commercial Site Plans are required for projects with over 2,500 square feet of land disturbance. See § 18-836.00, Site Plan.**
3. **Application and Review Process.**
- A. **Reviewers.** Applications for Building Permits are reviewed by the Director of Planning and Zoning, the Director of Public Works, the Zoning Administrator, and Fairfax County for completeness and compliance with requirements of this Code, and other applicable State and Town regulations. Fairfax County may concurrently review Building Permit applications.
  - B. **Board of Architectural Review.** Exterior modifications to non-residential, mixed-use, duplex, townhouse, and multi-family properties and structures require review and approval by the Board of Architectural Review. See Section 18-821 Board of Architectural Review Certificate of Approval and Chapter 4 of the Code of the Town of Vienna.
  - C. **Compliant Applications.** Once the application is determined to comply with requirements of this Chapter, and other applicable State and Town regulations, the Zoning Administrator will provide stamped drawings and documentation to the applicant stating that the application fulfills Town of Vienna zoning and site-related requirements.
  - D. **Issuance of Permit.** Fairfax County may issue a building permit after the application has received Town of Vienna zoning and site-related approval. For a building permit to be valid, an applicant must receive both a building permit from Fairfax County and both zoning and site-related approvals from the Town of Vienna.
4. **Required Application Materials.**
- A. **Small-Scale Residential Building Permits.** The applicant shall submit to the Zoning Administrator a plat or site plan prepared by a registered engineer or certified land surveyor authorized to practice by the Commonwealth of Virginia, showing current site conditions and proposed improvements, in addition to items outlined in the relevant checklist of requirements.
  - B. **Large-Scale Residential Building Permits.** All residential building permit applications for residential projects with 2,500 square feet or more of land disturbance shall be submitted with a site plan drawn by a registered engineer or certified land surveyor authorized to practice by the Commonwealth of Virginia, showing current site conditions and proposed improvements, in addition to items outlined in the relevant checklist of requirements. **See § 18-836.10, Infill Lot Site Plan.**
  - C. **Commercial Building Permits.** If a Commercial Building Permit application is associated with site modifications, a site plan must be submitted in accordance with the requirements of this Chapter. The Zoning Administrator may determine that some applications do not require site plan review. Applicants must follow the relevant checklist of requirements. **See § 18-836, Site Plans.**
5. **Appeals.** The Town of Vienna decisions on building permit applications may be appealed by the applicant, following the process outlined in § 18-820 Appeals of Zoning Administrator Decision.
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6. **Inspections.** The Zoning Administrator and Director of Public Works may determine that inspections are required during the construction or after the construction of the scope of work within a permit. Inspections may include site visits or document review.
  7. **Land Subject to Flooding or Erosion.** No permit shall be issued for the erection of any permanent structure intended for residential, commercial, or industrial use, nor shall any structure be erected on land in such proximity and relative elevation to any open stream or drainage channel where such land is subject to periodic or recurring flooding from stormwater, or subject to the danger of erosion, unless all plans therefor conform to all requirements of this Chapter.

## **Sec. 18-823. Certificate of Occupancy.**

### **1. Certificate of Occupancy Required.**

- A. No commercial or residential occupancy, use, change of use, or continuation of a use following the change in ownership or proprietary control of such use of any building shall take place until a certificate of occupancy shall have been issued by the Zoning Administrator in accordance with the provisions set forth in this chapter.
- B. A certificate of occupancy subject to this Ordinance must not be issued unless the Zoning Administrator certifies that the proposed activity complies with this Chapter, including all conditions of approval of permits or development approvals to which the proposed activity is subject.
  - i. **Seasonal Planting Deferral.** If at the time an occupancy permit is requested for a residential or commercial structure, or shell, the requirements of *Chapter 17 – Trees, required stormwater management facility plantings, RPA or RMA plantings and/or the installation of ground cover* cannot not be met due to being outside of the planting season, the Zoning Administrator, in consultation with the Urban Forester and Director of Public Works, may accept a bond for the cost of required plantings and ground cover. Plantings made outside of the planting season may be bonded at the discretion of the Urban Forester.
  - ii. **Other Bonds.** The Zoning Administrator, in consultation with the Director of Public Works and/or Director of Planning and Zoning, may accept a bond at the time of occupancy for any incomplete public improvements not covered under escrow within Sec. 18-402.3., required improvements per the Town of Vienna Stormwater Management Agreement, and other requirements of this Chapter.
- C. An existing Certificate of Occupancy is invalidated and must be reissued under the following circumstances:
  - i. An existing non-residential use is expanded or modified;
  - ii. The ownership, and/or the registered trade name of the owner, of a non-residential or multi-unit building changes;
  - iii. The user of an existing non-residential tenant space changes or the registered trade name of any non-residential owner changes; or
  - iv. Alterations or an addition greater than 50% of the existing structure is proposed.

## **Sec. 18-830. Modification of Requirements.**

1. Purpose. Applications for modifications of requirements, in which the proposed **commercial, mixed-use, multi-unit, institutional, or community use** development cannot be achieved within the requirements of the Zoning Code, must submit a narrative and **Major** ~~an appropriate~~ Site Plan demonstrating the requested modifications to any of the following standards:
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- A. ~~Building placement standards and~~ Setbacks per Article 2.
  - B. ~~Lot and Site development standards and Lot Area~~ per Article 2.
  - C. Lot Coverage per Article 2.
  - D. ~~Units Per Gross Acre Number of units~~ per Article 2.
  - E. ~~Building standards and~~ Height of an architectural feature per Article 2.
  - F. ~~Lot and~~ Open space standards per Article 2.
  - G. Screening or landscaping standards per Articles 4B, 5A and 5B.
  - H. Parking standards per Articles 4B, 5A and 5B.
  - I. ~~Use specific standards per Article 3, Division 3.~~
  - J. ~~Approval of Overlay Zone Modifications.~~
2. ~~Zoning Variance. Waivers related to Single-unit development shall follow the Zoning Variance process within Sec. 18-843.~~
- ~~2-~~ 3. Application and Review Process.
- A. Requests must be in writing. Requests for Modifications of Requirements shall be submitted to the Director of Planning and Zoning, accompanied by a written statement including the code sections from which relief is sought and setting forth the reasons therefor, ~~and an appropriate site plan showing the proposed conditions.~~
  - B. Completeness and Compliance. Applications for modifications of requirements are reviewed for completeness and compliance with the Code of Vienna by the Director of Planning and Zoning, the Director of Public Works, the Director of Parks and Recreation, and the Zoning Administrator.
  - C. Transmission to Planning Commission. Once staff review is complete, the application will be transmitted to the Planning Commission for review at a regular meeting. The Planning Commission shall make a recommendation on the application to the Town Council, which shall include reviewing for consistency with the Comprehensive Plan and the integrity of the Town Code.
  - D. Final Decision by Town Council. The application and Planning Commission's recommendation are then transmitted to the Town Council for review and determination at a public hearing. The Town Council's review shall include, but not necessarily be limited to, determining whether the requested modifications would, if approved, be consistent with the Comprehensive Plan and would not impair the integrity of the Town Code.
  - E. Notification. Prior to the Town Council granting or denying any such modification, notification letters by ~~certified first-class~~ mail to adjoining property owners and those abutting across a public street shall be sent not less than five days prior to council's consideration of the request for modification. See also Division 5.
  - F. Final Approval Required before the Issuance of Other Permits. Applications for modifications of requirement must be approved by Town Council and the final site plan must be stamped as approved prior to the issuance of building permits or a Certificate of Occupancy.
  - G. Referral to Board of Architectural Review. All site plans, except those for single-unit residential properties, may require referral to the Board of Architectural Review prior to approval. See § 18-821.

### **Sec. 18-836. Site Plan Review.**

- 1. **Site Plan Approval Required.** Development of, redevelopment of, or modifications to property must be approved through one of the following site plan types prior to the issuance of a building permit or commencing excavation.
  - 2. **Types of site plans.**
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- A. **Minor.** Applications for minor changes to site plans must be for projects that have less than 2,500 square feet of land disturbance ~~and not require Modifications of Requirements per § 18-830~~. Examples include parking lot restriping (with a design change), refuse storage changes, addition of outdoor dining and patios, and other site plan amendments determined to be minor by ~~the Director of Planning and Zoning in consultation with~~ the Zoning Administrator and the Director of Public Works.
  - B. **Major.** All new site plans, new structures, and site plans with land disturbance of 2,500 square feet or more are considered major site plans. ~~All site plans where a modification of requirements is requested shall follow the Major Site Plan process (See § 18-830, Modification of Requirements).~~
  - C. **Overlay Zones: Avenue Center Overlay (AC-O) and Church Street Vision Overlay (CS-O).** Applications for development in the Avenue Center District that wish to utilize the incentives of the Avenue Center Overlay zone (Article 2, § 18-235) ~~or the Church Street Vision Overlay zone (Article 2, § 18-236)~~ must submit a ~~Major~~ Site Plan demonstrating that the additional requirements of the ~~overlay zone Avenue Center Overlay process~~ will be met as part of the plan.
  - ~~D. **Church Street Vision Overlay (CS-O).** Applications for development in the Church Street District that wish to utilize the incentives of the Church Street Vision Overlay zone (Article 2, § 18-236) must submit a Major Site Plan demonstrating that the additional requirements of the Church Street Vision process will be met as part of the plan.~~
  - ~~E. **Corporate Park District (CP).** Applications for a building permit or certificate of occupancy in the Corporate Park District (Article 2, § 18-227) that is not in accordance with the approved site plan of development for the property, must first submit an amendment to the site plan including all required information about the proposed use.~~
  - ~~F. **Parks Zones (PR & PC).** Any changes to a site plan for properties zoned Parks and Recreational (PR) (Article 2, § 18-232) or Parks and Conservation (PC) (Article 2, § 18-233) must be approved by Town Council.~~
  - ~~G.~~ **D. Infill Lot Plan and Lot Grading Plan, Residential Application.**
    - i. Single-unit residential infill construction with 2,500 square feet or more of land disturbance requires the approval of a site plan prior to the issuance of a building permit for new construction or additions.
    - ii. Infill development on residential lots that are part of a subdivision that is in active development shall submit a Lot Grading Plan, demonstrating compliance with the approved subdivision.
3. **Application Process for Site Plans, Generally.**
- A. **Completeness and Compliance.** Applications for site plans are reviewed for completeness and compliance with the Code of Vienna by the Director of Planning and Zoning, the Director of Public Works, the Director of Parks and Recreation, and the Zoning Administrator.
  - B. **Final Approval Required before the Issuance of Other Permits.** A final site plan must be stamped as approved prior to the issuance of building permits or a Certificate of Occupancy.
  - C. **Referral to Board of Architectural Review.** All site plans, except those for single-unit residential properties, may require referral to the Board of Architectural Review prior to approval.
4. **Minor Site Plan Applications.**
- A. **Submission Requirements Reduced.** The Director of Public Works and the Zoning Administrator may, based on the proposed scope of work, accept the submission of a site plan with reduced detail or for a segment (rather than the whole) of a site, if they deem that the assessment for completeness and compliance will still be sufficient.
  - B. **May Require Major Site Plan.** After review by the Director of Planning and Zoning, Director of Public Works, Zoning Administrator, and Director of Parks and Recreation, a determination may be made that
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- the application shall be reviewed as a Major Site Plan, and that additional submission materials are required for a Major Site Plan application.
- C. **Application Review and Process.**
- i. **Completeness and Compliance.** Applications for minor site plans are reviewed for completeness and compliance with Town Code by the Director of Planning and Zoning, the Director of Public Works, the Director of Parks and Recreation, and the Zoning Administrator.
  - ii. **Modification of Requirements.** The Director of Planning and Zoning determines whether modifications from zoning regulations are necessary for the application to be approved. If such modifications are requested by the applicant, the application shall follow the Modification of Requirements process within Section 18-830. Modification of Requirements.
  - iii. **Final Approval by the Zoning Administrator and Director of Planning and Zoning Public Works.** The Zoning Administrator and Director of Planning and Zoning Public Works issues the final stamped site plan and the Town of Vienna site and zoning review approval letter.
5. **Major Site Plan Applications.**
- A. **Full Submission Requirements.** The Director of Public Works and Zoning Administrator shall require a site plan submission that provides all material needed to ensure compliance with all Town, County and State regulations.
  - B. **Required Public Improvements.** All major site plans are required to meet the required public improvements provisions outlined in Article 6, § 18-628 in accordance with standards and specifications by the Director of Public Works per the road category shown on the Town's Official Map along all lot lines of all dedicated rights-of-way.
  - C. **Application and Review Process.**
    - i. **Completeness and Compliance.** Applications for major site plans are reviewed for completeness and compliance with the Town Code by the Director of Planning and Zoning, the Director of Public Works, the Director of Parks and Recreation, and the Zoning Administrator.
    - ii. **Modification of Requirements.** The Director of Planning and Zoning determines whether modifications from zoning regulations are necessary for the application to be approved. If such modifications are requested by the applicant, the application shall follow the Modification of Requirements process within Section 18-830. Modification of Requirements.
    - iii. **Final Approval by the Zoning Administrator and Director of Planning and Zoning Public Works.** The Zoning Administrator and Director of Planning and Zoning Public Works provide their final approval approach through the issuance of the final stamped site plan and the Town of Vienna site and zoning review approval letter.
6. **Overlay Zones: Avenue Center Amenity Overlay (AC-O) and Church Street Vision (CS-O) Applications.**
- A. **Zoning Incentives.** Developments proposed within the Avenue Center Overlay Zone that intend to utilize the bonus modification incentives identified in § 18-235 must submit a site plan to the Department of Planning and Zoning.
  - B. **Application and Review Process.**
    - i. **Completeness and Compliance.** Applications to utilize the Avenue Center Overlay zoning bonuses are reviewed for completeness and compliance with the Town Code by the Director of Planning and Zoning, the Director of Public Works, the Director of Parks and Recreation, and the Zoning Administrator.
    - ii. **Modification of Requirements.** The Director of Planning and Zoning determines whether modifications from zoning regulations are necessary for the application to be approved. If such
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modifications are requested by the applicant, the application shall follow the Modification of Requirements process within Section 18-830. Modification of Requirements.

- iii. **Final Approval by the Director of Planning and Zoning.** The Director of Planning and Zoning provides final approval through the issuance of the final stamped site plan and the Town of Vienna site and zoning review approval letter.

- ii. ~~**Final Decision by Town Council.** Once staff review is complete, the application will be transmitted to the Town Council for review and determination at a public hearing. Town Council shall review and consider the application for compliance with the Avenue Center (AC) Amenity Overlay District requirements in this Code.~~

#### ~~7. Church Street Vision Overlay Applications.~~

- A. ~~**Zoning Incentives.** Developments proposed within the Church Street Vision Overlay Zone that intend to utilize the bonus modification incentives identified in Article 2, § 18-236 must submit a site plan to the Department of Planning and Zoning.~~
- B. ~~**Required Public Improvements.** All major site plans are required to meet the required public improvements provisions outlined in Article 6, § 18-628 in accordance with standards and specifications by the Director of Public Works per the road category shown on the Town's Official Map along all lot lines of all dedicated rights-of-way.~~
- C. ~~**Application and Review Process.**~~
  - i. ~~**Completeness and Compliance.** Applications to utilize the Church Street Vision Overlay zoning bonuses are reviewed for completeness and compliance with Town Code by the Director of Planning and Zoning, the Director of Public Works, the Director of Parks and Recreation, and the Zoning Administrator.~~
  - ii. ~~**Final Decision by Town Council.** Once staff review is complete, the application will be transmitted to the Town Council for review at a regular meeting. Town Council shall review and consider the application for compliance with the Church Street Vision Overlay District requirements in this Chapter.~~

#### ~~8. Corporate Park District Plan of Development Application.~~

- A. ~~**Application.** An application for a Corporate Park District Plan of Development shall be submitted to the Director of Planning and Zoning on such forms as the Director may prescribe and shall include the following:~~
  - i. ~~**Plan of Development.** In addition to the standard site plan requirements, the plan of development is required to include the following:~~
    - a. ~~Location and height of all buildings and structures.~~
    - b. ~~Area devoted to parking facilities and loading berths.~~
    - c. ~~All access roads, landscaping and screening plans.~~
    - d. ~~Areas designated for outdoor storage.~~
    - e. ~~Proposed signs.~~
  - ii. ~~**Description of proposed operation.** A description of the proposed operation including:~~
    - a. ~~All machinery, processes, and products.~~
    - b. ~~An estimate of the maximum number of employees contemplated and the number of shifts during which they would work.~~
    - c. ~~Specifications for the mechanisms and techniques to be used in restricting the emission of dangerous and objectionable elements.~~

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- d. ~~Effects of the operation including noise, glare, odor, sewerage, air pollution, water pollution, fire or safety hazards, or other factors detrimental to the health safety, and welfare of the area.~~
  - iii. ~~**Private covenants.** Private covenants and/or provisions for associations of individual owners proposed within a Corporate Park (CP) District shall be included as a part of the preliminary development plan.~~
  - iv. ~~**Other information required.** The applicant shall provide whatever other information the Planning Commission or the Town Council may require to determine the effect that the proposed uses may have upon their environment and on the cost of providing municipal services to the areas.~~

**~~B. Review Process.~~**

- i. ~~**Completeness and Compliance.** Applications for Corporate Park Plan of Development are reviewed for completeness and compliance with Town Code by the Director of Planning and Zoning, the Director of Public Works, the Director of Parks and Recreation, and the Zoning Administrator.~~
- ii. ~~**Transmission to Planning Commission.** Once staff review is complete, the application will be transmitted to the Planning Commission for review at a regular meeting. The Planning Commission shall make a recommendation on the application to the Town Council.~~
- iii. ~~**Final Decision by Town Council.** The application and Planning Commission's recommendation are then transmitted by the Director of Planning and Zoning to the Town Council for review and determination at a public hearing. Town Council shall review and consider the application for compliance with the Corporate Park (CP) District requirements in this Chapter and determination that the proposed development will achieve the following:~~
  - a. ~~A maximum of coordination between the proposed use and the surrounding uses;~~
  - b. ~~Harmony with the character of the surrounding neighborhood and consistent with the overall long-range plans for the community;~~
  - c. ~~Adequately landscaped, buffered, and screened; and~~
  - d. ~~Will not result in traffic hazards.~~

**~~9. Parks Zones (PR & PC).~~**

- A. ~~**Full Submission Requirements.** The Director of Public Works and the Zoning Administrator shall require a site plan submission that fulfills the requirements of the complete site plan submission checklist.~~
- B. ~~**Application Review and Process.**~~
  - i. ~~**Completeness and Compliance.** Applications for site plans for development in the Parks and Recreation or Parks and Conservation zones are reviewed for completeness and compliance with Town Code by the Director of Planning and Zoning, the Director of Public Works, the Director of Parks and Recreation, and the Zoning Administrator.~~
  - ii. ~~**Transmission to Planning Commission.** Once staff review is complete, the application will be transmitted to the Planning Commission for review at a public hearing. The Planning Commission shall make a recommendation on the application to the Town Council.~~
  - iii. ~~**Final Decision by Town Council.** The application and Planning Commission's recommendation are then transmitted by the Director of Planning and Zoning to the Town Council for review and determination at a public hearing.~~

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~~10-~~ **7. Infill Lot Plan and Lot Grading Plan, Residential Application.**

- A. **Full Submission Requirements.** The Director of Public Works and the Zoning Administrator shall require a site plan submission that fulfills the requirements of the complete site plan submission checklist.
- B. **Application Review and Process.**
- i. **Completeness and Compliance.** Applications for Infill Lot Plans are reviewed for completeness and compliance with Town Code by the Director of Planning and Zoning, the Director of Public Works, the Director of Parks and Recreation, and the Zoning Administrator.
  - ii. **Final Approval by the Director of Planning and Zoning Administrator and Director of Public Works.** The Director of Planning and Zoning Administrator and Director of Public Works issues the final stamped site plan and the Town of Vienna site and zoning review approval letter.

~~11-~~ **8. Appeals.** If an applicant contends that the disapproval of a site plan was not properly based on the ordinance applicable thereto, or was arbitrary or capricious, within 60 days of the written disapproval, the applicant may appeal to the Fairfax County Circuit Court and the court shall hear and determine the case as soon as may be.

~~A. Administrative Zoning Decisions. The zoning decisions made by the Director of Planning and Zoning and the Zoning Administrator on any site plan applications may be appealed by the process within § 18-820 Appeals of Zoning Administrator Decision.~~

~~B. Town Council Decisions. Decisions by Town Council may be appealed to the Circuit Court.~~

**Sec. 18-843. Zoning Variance.**

1. **Variances are allowed from requirements of this Chapter.** The Board of Zoning Appeals shall have the power to grant, upon appeal or original application in specific cases, such variance from the terms of this chapter provided the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that the application meets the standard for a variance and the criteria set out in this section.
  2. **Modification of Requirements.** Modification of Requirements, as described within § 18-830, are not Zoning Variances, and the modifications that are eligible for site plan applications are not also eligible for Zoning Variances.
  3. **Submission Requirements.**
    - A. **Site Survey or Infill Lot Plan.** All Zoning Variance requests shall be submitted with a site plan drawn by a licensed surveyor, showing existing lot conditions.
    - B. **Site Survey Showing Proposed Conditions.** A site survey must be provided, showing the proposed specific improvements and the proposed variance from the Zoning Code.
    - C. **Architectural Plans Required.** Variance requests that include the construction of an addition to an existing home or a new structure must include architectural elevations drawn by a licensed architect or other design professional. The architectural plans must be specific and complete as to the variance requested from the Zoning Code.
    - D. Statement of Justification.** All variance requests must include a written statement addressing the criteria of Section 18-843.4. or other applicable criteria of this Chapter.
  4. **Criteria for Approval.** Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and:
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- A. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;
  - B. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
  - C. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;
  - D. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and,
  - E. The relief or remedy sought by the variance application is not available through the Conditional Use Permit process or, when permitted by this Chapter, determination by the Zoning Administrator.
5. **Application and Review Process.**
- A. **Pre-Application Meeting.** Applicant is required to attend a pre-application meeting with Town staff prior to submitting an application for a Zoning Variance. See § 18-833 Pre-Application Meeting.
  - B. **Review for completeness.** An application for a Zoning Variance is reviewed for completeness by the Director of Planning and Zoning and the Zoning Administrator. The application may be referred to the Director of Public Works if determined to be necessary by the Zoning Administrator.
  - C. **Application deemed complete.** Once the Director of Planning and Zoning and the Zoning Administrator deem the application to be complete, the application and supporting materials are transmitted to the Board of Zoning Appeals.
  - D. **Action by the Board of Zoning Appeals.**
    - i. **Final Decision.** The Board of Zoning Appeals has the final decision authority on Zoning Variances.
    - ii. **Board may Impose Conditions.** In authorizing a variance, the board may impose such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.
6. **Appeals.** Decisions by the Board of Zoning Appeals may be appealed to the Circuit Court per the Code of Virginia, § 15.2-2285, 1950, as amended.
7. **Variance Valid for six (6) months from Approval.** Any variance authorized by the board to permit the erection or alteration of a building or structure shall be valid only for six months. Within the six months, a Building Permit must be obtained for the approve variance to remain valid.

## **Sec. 18-845. Summary of Notifications Table and Abbreviations Used.**

- 1. The following table in § 18-846 summarizes the types of notification required for identified application and review processes.
  - 2. The table includes notifications required by the Code of Virginia, 1950, as amended, as well as courtesy notifications required by the Town of Vienna.
  - 3. The abbreviations in this section apply to the table in § 18-846. Each cell is located at the intersection of a row and a column, and the meanings of the abbreviations are as follows:
    - A. **R - Required.** A "R" in a table cell indicates that type of Notification is required by the Code of Virginia, 1950, as amended, or Town Code, for the identified stage review for the application or review process in that row.
    - ~~B. **C - Courtesy.** A "C" in a table cell indicates that type of Notification is provided as a courtesy for the identified stage review for the application or review process in that row.~~
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- ~~€~~ **B. L - Letters.** A "L" in a table cell indicates that letters, not postcards, must be used as the form of written notice.
- ~~D~~ **C. P - Postcards.** A "P" in a table cell indicates that postcards may be sent as the form of written notice.
- ~~E~~ **D. "-"** An "-" in a table cell indicates that form of notification in that column is not required for the application or review process in that row.

**Sec. 18-846. Notifications Table.**

APPLICATION/REVIEW PROCESS TYPE	REVIEW & DECISION MAKING AUTHORITIES	WRITTEN NOTICE			PLACARD NOTICE	NEWSPAPER NOTICE
		Applicant/Owner	Surrounding Property/Business Owners	Fairfax County Executive/Designee		
R = REQUIRED / <del>C = COURTESY</del> / L = LETTER / P = POSTCARD						
Conditional Use Permit	Planning Commission	€ R /L	€ R /P	€ R /L	€ R	-
	Board of Zoning Appeals	R/L	R/P	R/L	R	R
Modification of Requirements	Planning Commission	R/L	€ R /L	-	€ R	-
	Town Council	R/L	R/L	-	€ R	-
Proffer Amendment	Planning Commission	R/P	R/P	R/L	R	R
	Town Council	R/P	R/P	R/L	R	R
Rezoning, Text, and Map Amendments	Planning Commission	R/L	R/L	R/L	R	R
	Town Council	R/L	R/L	R/L	R	R
Site Plan, Avenue Center Amenity Overlay (AC-O)	Town Council	€ /P	€ /P	-	€	-
Site Plan, Church Street Vision (CS-O)	Town Council	€ /P	€ /P	-	€	-

Site Plan, Corporate Park (CP) District	Planning Commission	C/P	C/P	-	C	-
	Town Council	C/P	C/P	-	C	-
Site Plan, Parks Zones (PC & PR)	Planning Commission	R/L	R/L	-	R	R
	Town Council	R/L	R/L	-	R	R
Subdivision, Lot Line, and Boundary Adjustment	Planning Commission		C/P	-	C	-
	Town Council	R/P	C/P	-	C	-
Windover Heights Application	Windover Heights Board of Review	C R /L	C R /L*	-	-	-
Zoning Administrator Interpretation/Determination	Zoning Administrator	R/L	-	-	-	-

\* Note: For the Windover Heights Board of Review applications, only the surrounding properties within the WHBR district are notified.