

**DEPARTMENT:** Public Works, Planning Division

**STAFF CONTACT:** Aimee Nassif, Chief Planning and Development Officer; Shelby Ferguson, Planning Consultant

**SUBJECT:** UDO18-0002 Amendments to Chapters 18.30, 18.40, 18.50

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**ITEM DESCRIPTION:**

Consideration of Ordinance 18-XX (UDO18-0002) for *Unified Development Ordinance* Amendments.

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**SUMMARY:**

On November 26, 2018, the Planning Commission considered updates to the *Unified Development Ordinance (UDO)* pertaining to Chapters 18.30, 18.40 and 18.50. The November 26<sup>th</sup> meeting was a result of the City Council's November 1<sup>st</sup> request that the Planning Commission reconsider its October 22<sup>nd</sup> recommendation regarding UDO18-0002.

Staff's recommendations presented on November 26<sup>th</sup> were a result of collaboration with community stakeholders which began in August 2018. Staff's recommendations for reconsideration presented to the Planning Commission on November 26 are as follows:

**1. Chapter 18.40 Procedures**

**a. Section 18.40.110 Site Development Plans**

- i. Subsection (G.1) add language expiring preliminary site development plans, if a final development plan is not approved within two (2) years.
- ii. Subsection (G.2) add language requiring a phasing pattern for site development plans which include multiple lots.
- iii. Subsection (G.3) add language clarifying the applicant must submit and obtain approval for a final site development plan within the designated time period for the plan to remain valid.
- iv. Subsection (G.4) add the word "construction" to clarify construction must commence following approval and issuance of building permit.
- v. Subsection (G.5) clarify the review authority for site development plan time period extensions.
- vi. Subsection (G.5) clarify how a preliminary or final development plans expiration time period may be extended.

**b. Section 18.40.150 Preliminary Plat**

- i. Subsection (F.2) add language allowing the applicant to request a one (1) year extension on for preliminary plats, approved administratively.
- ii. Subsection (F.3) strengthen and clarify phasing plan requirements for preliminary plats over forty (40) acres.

Updates to the UDO for the expiration of preliminary plans and plats (18.40 Procedures) were originally presented to the City Council on June 19, 2018. On August 21, 2018 updates for vibration standards for Quarries and Mines (18.30 Development Standards and 18.50 Supplemental Use Regulations) were presented. After the June and August meetings, staff continued to research and seek input from community stakeholders.

The procedures updates will streamline the process, provide for additional time extensions, and clarify requirements for plans and plats. The amendments pertaining to quarries and mines will remove inconsistency in blasting regulations, consolidate all quarry and mine operation standards in a single section of code and clarify language for setbacks when near residential property lines.

Staff informed all stakeholders who had been engaged with us regarding future meeting dates and submission deadlines for agenda packets. Written comments received by staff were included in the November 26 Planning Commission packet pertaining to these updates.

While City Council requested specific sections of the UDO updates be reconsidered, for administrative purposes, all amendments, including those recommended for approval by the Planning Commission in October, have remained as a single, comprehensive UDO package known as UDO18-0002.

The following is the list of all UDO updates for consideration as part of UDO18-0002:

**1. Chapter 18.30 Development Standards**

**Section 18.30.190 Performance Standards**

- i. Subsection (C) add language directing the reader to Section 18.50.160.
- ii. Subsection (C) renumber section within subsection C.

**2. Chapter 18.40 Procedures****a. Section 18.40.110 Site Development Plans.**

- i. Subsection (D.1.a) remove inconsistent language pertaining to notice requirements.
- ii. Subsection (D.1.b) add language clarifying notice requirements for preliminary site plans.
- iii. Subsection (G.1) add language expiring preliminary site development plans if a final development plan is not approved within five (5) years.
- iv. Subsection (G.2) add language requiring a phasing pattern for site development plans over forty (40) acres.
- v. Subsection (G.3) add language clarifying the applicant must submit and obtain approval for a final site development plan within the designated time period for the plan to remain valid.
- vi. Subsection (G.4) add the word “construction” to clarify construction must commence following approval and issuance of building permit.
- vii. Subsection (G.5) clarify the review authority for site development plan time period extensions.
- viii. Subsection (G.5) clarify how a preliminary or final development plans expiration time period may be extended.
- ix. Subsection (G.5) remove inconsistent language pertaining to RP-1 plats and plans.

**b. Section 18.40.150 Preliminary Plat.**

- i. Subsection (F.2) add language allowing the applicant to request a one (1) year extension on for preliminary plats, approved administratively.
- ii. Subsection (F.2) add language stating that time period for a preliminary plat resets with submittal and approval of each final plat for any phase on the preliminary plat.
- iii. Subsection (F.3) strengthen and clarify phasing plan requirements for preliminary plats over forty (40) acres.

- iv. Subsection (F.4) remove inconsistent language pertaining to RP-1 plats and plans.

**c. Section 18.40.160 Final Plat.**

- i. Subsection (E.1.b) clarify that final plats must conform to all requirements of the UDO.

**3. Chapter 18.50 Supplemental Use Regulations**

**Section 18.50.160**

- i. Subsection (B) add language referencing Title 16 of Municipal Code requirements shall be followed.
- ii. Subsection (D.1.b) increase setback requirements for above ground operations.
- iii. Subsection (D.4) remove unnecessary verbiage.
- iv. Subsection (D.5) add and clarify setback requirements removed from subsection D.4.
- v. Subsection (F) remove vibration standards for consistency with Title 16 of the Municipal Code.

After staff's presentation to the Planning Commission on November 26<sup>th</sup>, the Planning Commission discussed staff's recommendations. Commissioner Rinke noted that he was not in favor of removing a nuisance standard from the UDO pertaining to vibration levels for blasting at quarries and mines. The Planning Commission recommended approval by a vote of 7-0 of UDO18-0002 as presented. Attachment A is the Ordinance for UDO18-0002 which contains the red-line version of all amendments for consideration. The subsequent attachments provide a history of this process, including previous red-lines, public comments, and staff reports.

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**FINANCIAL IMPACT:**

None

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**ACTION NEEDED:**

1. Approve Ordinance No. 18-XX regarding the 2018 Update to the City of Olathe Unified Development Ordinance (UDO18-0002).
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**ATTACHMENT(S):**

- A. Ordinance No. 18-XX (UDO18-0002)
- B. November 26, 2018 Planning Commission Packet
- C. November 26, 2018 Planning Commission Meeting Minutes
- D. October 22, 2018 Planning Commission Packet
- E. October 22, 2018 Planning Commission Meeting Minutes

**ORDINANCE NO. 18-59**

**AN ORDINANCE AMENDING SECTIONS 18.01.020, 18.30.190, 18.40.110, 18.40.150, 18.40.160, AND 18.50.160, OF THE OLATHE MUNICIPAL CODE PERTAINING TO THE UNIFIED DEVELOPMENT ORDINANCE.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:**

**WHEREAS**, on June 17, 2014, the Governing Body of the City of Olathe adopted Ordinance No. 14-39, the *Unified Development Ordinance*; and

**WHEREAS**, the Governing Body directed staff and the Planning Commission to proceed with consideration of amendments to the Unified Development Ordinance on an annual basis; and

**WHEREAS**, proposed amendments (UDO18-0002) to the *Unified Development Ordinance* were reviewed at a planning session with the Governing Body on June 19, 2018 and August 21, 2018; and

**WHEREAS**, proposed amendments to the *Unified Development Ordinance* were discussed at a Planning Commission workshop on October 8, 2018; and

**WHEREAS**, on October 22, 2018 the Planning Commission held a public hearing and recommended approval as presented for sections 18.30.190, 18.40.40110.G.5, 18.40.150F.4, 18.40.160 and 18.50.160 and recommend no updates for sections 18.40.110.G.1-5 and 18.40.150.F.2 & 3; and

**WHEREAS**, on November 1, 2018, the Governing Body returned UDO-18-0002 to the Planning Commission for reconsideration ; and

**WHEREAS**, on November 26, 2018, the Planning Commission reviewed and reconsidered the proposed amendments and recommended approval of the amendments as presented at that meeting; and

**WHEREAS**, the Governing Body reviewed the Planning Commission's November 26, 2018 recommendation and concurs with its recommendation.

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:**

**SECTION ONE:** Section 18.01.020 of the Olathe Municipal Code (Unified Development Ordinance) is hereby amended to read as follows:

**"18.01.020 Marked Copies of Ordinance on File.** There shall not be less than three (3) copies of the Unified Development Ordinance, adopted by reference in Section 18.01.010 kept on file in the office of the City Clerk, to which shall be attached a copy of the incorporating ordinance, marked or stamped "Official Copies as Incorporated by Ordinance No. 14-39, as amended by Ordinance No. 15-16, Ordinance No. 16-20, Ordinance No. 16-51, Ordinance No. 17-01, Ordinance No. 17-52, Ordinance 18-48 [and Ordinance No. 18-59](#)," and open to inspection by the public at all reasonable hours. The police department, municipal judges, and all other departments of the City charged with the enforcement of the Unified Development Ordinance shall be supplied, at the cost of the City, with such number of official copies of such ordinance as may be deemed expedient."

**SECTION TWO:** Section 18.30.190 of the Olathe Municipal Code (Unified Development Ordinance) is hereby amended to read as follows:

**“18.30.190 Performance Standards**

In some districts, performance standards capable of quantitative measurement are established. Except to the extent modified in the specific zoning district regulations, the following general provisions apply to measure compliance with those performance standards.

**A. Noise**

See Noise Control Ordinance (Chapter [6.18](#) of the Municipal Code).

**B. Smoke and Particulate Matter**

1. The Ringlemann Chart, as adopted and published by the United States Department of Interior, Bureau of Mines, shall be used to determine the density of equivalent opacity of smoke. The Ringlemann number indicated as the performance standard in certain zoning districts refers to the number of the area of the Ringlemann Chart that coincides most nearly with the visual density of equivalent opacity of the emission of smoke observed.
2. Within the M-1, M-2 and M-3 zoning districts, no use shall be permitted or operated so that smoke darker than Ringlemann No. 1 is produced from any vent, stack or chimney. However, emission of smoke darker than Ringlemann No. 2 is allowed for a duration of up to four (4) minutes during any eight (8) hour period if the emission is located no closer than two hundred fifty (250) feet from property zoned AG, any residential zoning district, N, or the residential areas of planned developments.
3. Particulate matter emissions, in excess of the threshold limit values caused by the wind from open storage areas, yards, roads, etc., within lot lines shall be kept to a minimum by appropriate landscaping, paving, oiling, wetting and other means, or shall be eliminated.

**C. Vibration**

1. Vibration standards for any use, other than quarries and mines, are found within this section. For minimum standards for quarry and mine operations, see section 18.50.160 of this UDO.

~~1~~**2.** Within the M-1, M-2 and M-3 zoning districts, no use may generate any ground-transmitted vibration in excess of one tenth (.10) inch per second measured at the property line, or in excess of two-one hundredths (.02) inch per second measured at any residential property line. These values may be multiplied by two (2) for impact vibrations, i.e., discrete vibration pulsations not exceeding one (1) second in duration and having a pause of at least one (1) second between pulses.

Vibrations are measured in particle velocity and are to be measured at the property line or other designated location.

**32.** A three-component measuring system capable of simultaneous measurement of vibration in three mutually perpendicular directions shall be used to measure vibrations.

**43.** The vibration maximums indicated as the performance standard in certain zoning districts may be measured directly with suitable instrumentation or computed on the basis of displacement and frequency. When computed, the following formula shall be used:

$$PV = 6.28 F \times D$$

Where:

PV = particle velocity, inches-per second

F = vibration frequency, cycles-per second

D = single amplitude displacement of the vibration,  
inches

**54.** The maximum particle velocity shall be in the maximum vector sum of three mutually perpendicular components recorded simultaneously.

**65.** Unless specifically indicated to the contrary in the zoning district regulations, vibration resulting from temporary construction activity that occurs between 7:00 AM and 7:00 PM is exempt from the indicated performance standard.

#### **D. Glare**

See Lighting (Section [18.30.135](#)).

**1.** Within the M-1, M-2 and M-3 districts, direct or sky-reflected glare, from floodlights or from high temperature processes such as combustion or welding, shall not be directed into any adjoining property.

#### **E. Heat**

Within the M-1, M-2 and M-3 districts, heat from furnaces, processing equipment, or other devices shall be contained so that the temperature of air or materials is raised no more than five (5) degrees Fahrenheit as measured at all property lines.

#### **F. Emissions**



Within the M-1, M-2 and M-3 districts, the maximum rate of emission of dust and other particulate matter from all sources within the boundaries of any lot or tract shall not exceed one (1) pound per hour per acre of lot area.

#### **G. Air Contaminants (such as Odors and Fumes)**

Within the M-1, M-2 and M-3 districts, the emission of air contaminants created by industrial processes shall comply with the Kansas Air Quality Act, K.S.A. § [65-3002](#) and any adopted state regulations. All air contaminants shall be contained so that no odors or fumes may be sensed at the property line of any residential zoning district.

#### **H. Electrical Issues**

Within the M-1, M-2 and M-3 districts, activity which creates any off-site electrical disturbance, or contributes to interference with electronic signals (including television and radio broadcasting transmissions) shall be prohibited.

#### **I. Toxic or Flammable Liquids**

Storage of toxic or flammable liquids such as gasoline, oil or grease, where not stored underground, shall occur in such a manner that a secondary storage system is provided with capacity as specified by the Fire Code.”

**SECTION THREE:** Section 18.40.110 of the Olathe Municipal Code (Unified Development Ordinance) is hereby amended to read as follows:

#### **“18.40.110 Site Development Plans**

*Purpose: A site development plan is a process that allows City staff and the Planning Commission to review significant developments and uses to ensure that they comply with the zoning and development standards in this title, have appropriate design and infrastructure, and comply with any conditions of rezoning, preliminary subdivision plat, or special use permit approval.*

#### **A. Applicability**

**1. A preliminary site development plan** is required for:

**a.** Any application to rezone property:

**(1)** to a district that allows nonresidential uses or multifamily or two-family dwellings,  
or

(2) to an “A,” “R-1” or “R-2” district where the applicant is proposing a nonresidential development

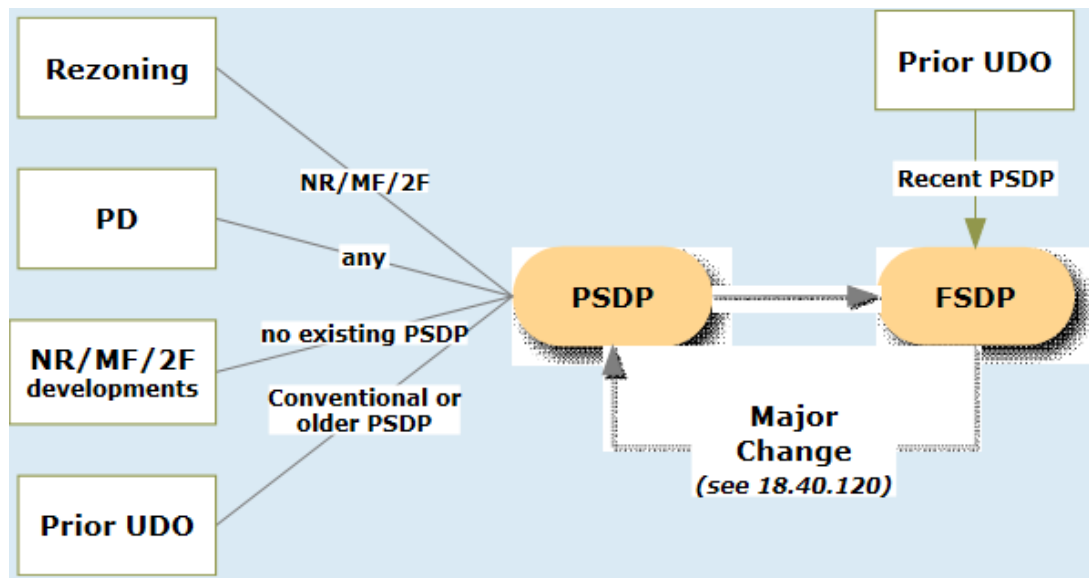
b. All nonresidential uses, or developments with multifamily or two-family dwellings unless a preliminary site development plan for the proposed development was already approved as part of the existing zoning district, and

c. Any application for approval of a planned development district.

2. If a property is subject to an approved and unexpired preliminary site development plan, a **final site development plan** is required before a building permit application is filed.

## B. Initiation

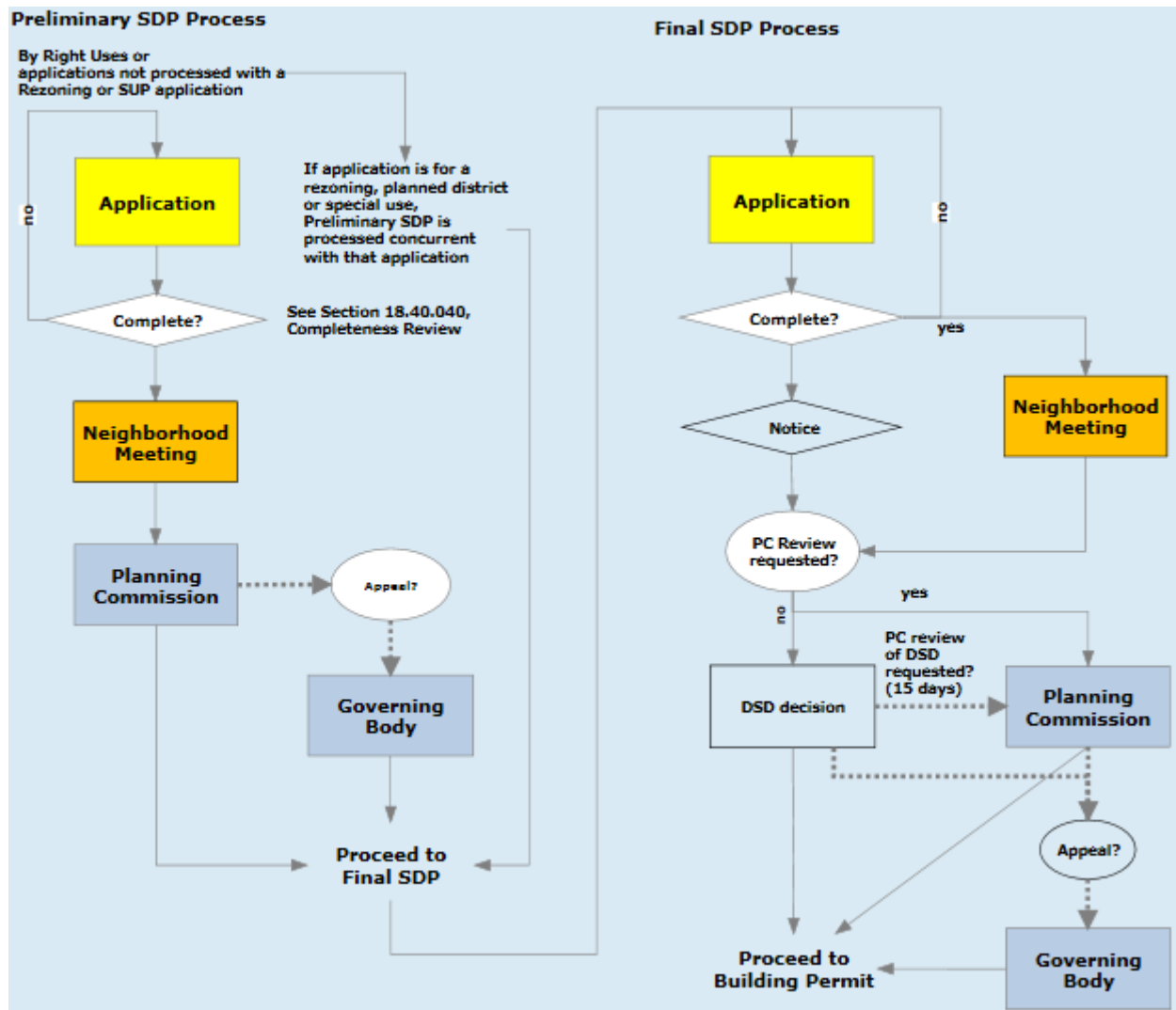
1. Preliminary and final site development plans shall be filed with the Planning Official, and shall include the information required by Chapter [18.94](#).



**Editor's Note:** This diagram referenced “Substantial Change” in Section [18.40.120](#). This terminology has been changed to “Major Change” to match the text of that section.

2. A neighborhood meeting is required for a preliminary and final site development plan (see Section [18.40.030](#)).

## C. Review Process



## D. Decision

### 1. Preliminary Site Development Plan Decision

a. If the application involves a use that is **permitted by right** in the applicable zoning district, the Planning Commission will approve, conditionally approve, or deny a preliminary site development plan. ~~Notice to surrounding property owners is required (see Section 18.40.050.B).~~ The Planning Commission will render a decision within 30 days, unless the applicant requests additional time in order to revise the application. The applicant may revise the application during this review period without resubmitting the application and paying new filing fees.

b. If the application involves a **planned district**, a **rezoning**, or a **special use**, the preliminary site development plan is processed and approved as part of that application.

[Notice to surrounding property owners is required \(see Section 18.40.050.B\).](#) The preliminary site development plan may be revised and resubmitted during the review period for the planned district/conditional rezoning or special use permit application review period and approved as part of the conditions of approval. In that case, the Approving Authority is the agency that approves that rezoning or special use.

## **2. Final Site Development Plan Decision**

### **a. Authority**

A final site development plan is approved by the Planning Official, unless the applicant requests Planning Commission review.

### **b. Planning Official Decisions**

If the Planning Official renders a decision on the application:

- (1)** The Planning Official shall render its determination within thirty (30) days after the applicant submits a complete application (see Section [18.40.040](#)), unless the applicant requests additional time in order to revise the application. The applicant may revise the application during this review period without resubmitting the application and paying new filing fees.
- (2)** If the Planning Official fails to render a timely decision, the applicant or a surrounding property owner may request Planning Commission review (see subsection [D.2.c](#), below).
- (3)** If the applicant or surrounding property owner does not request Planning Commission review, the Planning Official's determination is final.
- (4)** If an administrative review application is without communication from the applicant for more than six (6) months, the applicant will be required to submit a new application and fees for the final site development plan review to continue.

### **c. Planning Commission Review**

- (1)** The Planning Commission reviews the final site plan if the applicant asks the Planning Commission to review the final site plan within fifteen (15) days of the date of the Planning Official's decision.
- (2)** The Planning Commission will consider the application without a public hearing.
- (3)** The Planning Commission may approve, approve with conditions, or deny the preliminary or final site development plan.

(4) The Planning Commission shall render its decision within 30 days after the applicant requests a review. The Planning Commission may extend the time for making a decision if requested by the applicant.

## **E. Approval Criteria**

1. The following criteria apply to the approval, conditional approval or denial of a preliminary site development plan:

- a. The plan complies with all applicable requirements of Chapters [18.15](#), [18.20](#), and [18.30](#), and
- b. The plan represents an overall development pattern that is consistent with the Comprehensive Plan, the Major Street Map and other adopted planning policies.

2. A final site development plan is approved if it is consistent with the preliminary site development plan as approved, including all conditions of approval, and complies with all applicable requirements of this title. A final site development plan shall not modify or expand the approved preliminary site development plan, except as provided in Section [18.40.120](#).

## **F. Subsequent Applications**

- 1. When an application for preliminary or final site plan is withdrawn by the applicant or denied, the same application for the same property shall not be resubmitted for a period of one (1) year from the date of withdrawal or denial.
- 2. An application for a major modification to the withdrawn or denied application may be submitted at any time.

## **G. Scope of Approval**

1. Approved [preliminary site development plans](#) or final site development plans are valid for [five](#) ~~(5)~~ ~~2-two~~ years after ~~final~~ [date of](#) approval.

[2. When a preliminary site development plan containing a gross land area in excess of forty \(40\) acres is submitted for approval, the applicant will indicate the anticipated development or phasing pattern for final development. For developments which will be built in phases with a gross area less than forty \(40\) acres the City may require submittal of a phasing plan. The phasing plan for development shall include the following:](#)

- a) [Illustrative maps for each proposed phase which clearly mark in heavy lines the boundaries of the subject phase, label the phase alphabetically \(to avoid confusion with lot numbers\), and identify approximate area, number of lots in each phase, total area and buildable area per phase. All phasing maps shall be drawn at the same scale. The](#)

final phasing plan map should be drawn at the same scale as the preliminary site plan map.

- b) Any deviation from the approved phasing may be approved administratively by the Planning Official.

3. If the applicant fails to submit and obtain approvals for a final site development plan within the time period required in subsection G.1, above, the preliminary site development plan becomes null and void unless the time period is extended.

~~24.~~ If the ~~landowner~~ applicant fails to commence construction by means of issuance of a building permit ~~the planned development~~ within the time period required in subsection G.1, above, the final site development plan becomes null and void unless the time period is extended.

~~35.~~ The ~~Approving Authority~~ Chief Planning and Development Officer may extend the time period of a preliminary or final development plan upon written ~~application request~~ by the ~~landowner~~ applicant. Unless otherwise required in a condition of approval, the ~~Approving Authority~~ Chief Planning and Development Officer may extend the time period administratively without a public hearing. The ~~Approving Authority~~ Chief Planning and Development Officer shall extend the time period of either site development plan for up to ~~six (6)~~ twelve (12) months. ~~After this time period or at the time the original extension is requested,~~ Upon written request by the applicant, the ~~Approving Authority~~ Governing Body may extend the preliminary or final site development plan for any length of time for cause.

~~46.~~ The applicant may revise an approved final site development plan as provided in Section 18.40.120.

~~5. Any preliminary plat or preliminary development plan for a single-family subdivision in an existing RP-1 District approved prior to the effective date of this ordinance (June 17, 2014), where no final plat or plan has been approved, shall be considered expired and subject to a new application and the provisions of this ordinance.~~

## H. Appeals

The applicant or aggrieved party may appeal the disapproval of a preliminary or final site development plan by the Planning Commission to the Governing Body. The applicant shall file a notice of appeal with the Planning Official within ten (10) days following the decision.

## I. Recordkeeping

The Planning Division and the applicant shall maintain copies of the preliminary and final site development plan approvals, and all supporting documentation.

## J. Abandonment of Final Site Development Plan

1. If the applicant abandons any part of a site development plan, then the applicant shall notify the City in writing.
2. If any part of a final site development plan is abandoned, no development shall take place on the property until a new final site development plan is approved. (Ord. 17-52 §§ 22, 41, 2017; Ord. 16-20 § 4, 2016; Ord. 15-16 § 3, 2015)”

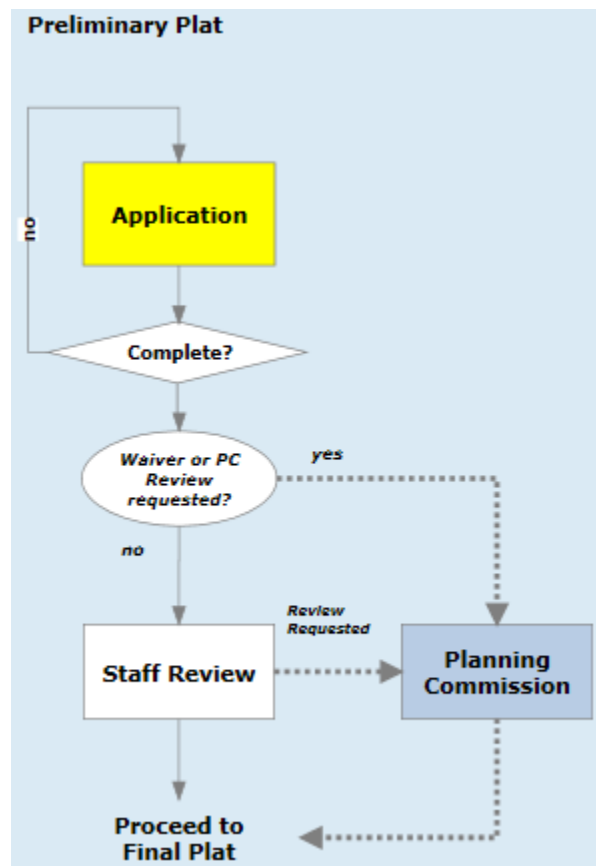
**SECTION FOUR:** Section 18.40.150 of the Olathe Municipal Code (Unified Development Ordinance) is hereby amended to read as follows:

### “18.40.150 Preliminary Plat

*Purpose: The preliminary plat process examines the major features and elements of a proposed plat. This process determines whether the plat conforms to this title and the Comprehensive Plan, and any conditions of approval.*

#### A. Applicability

1. The Planning Commission must approve a preliminary plat before a final plat application is filed.
2. A preliminary plat is not considered a “plat” for purposes of KSA [12-752](#). Instead, the preliminary plat is a preapplication process that is designed to ensure that that plat conforms to all applicable requirements of this title. The applicant may request that the City waive the preliminary plat process and proceed directly to the final plat process.



**B. Initiation**

1. An application for preliminary plat approval is filed with the Planning Official. Preapplication is required.
2. An applicant may substitute a preliminary development plan for a preliminary plat if the preliminary development plan contains all information required for preliminary plats as set forth in Chapter [18.94](#).
3. A neighborhood meeting is required (see Section [18.40.030](#))

↔ *Cross-Reference:* [18.40.020](#) (*Preapplication*)

**C. Completeness Review**

See Section [18.40.040](#), Completeness Review.

**D. Approval Criteria**

The Approving Authority shall approve the preliminary plat if it finds that the following criteria are satisfied:

1. The proposed preliminary plat conforms to the requirements of Chapter [18.30](#), the applicable zoning district regulations and any other applicable provisions of the Municipal Code, subject only to acceptable rule exceptions.
2. The subdivision represents an overall development pattern that is consistent with the Comprehensive Plan, Major Street Map, Access Management Plan, and applicable corridor studies and plans.
3. The plat contains a sound, well-conceived parcel and land subdivision layout which is consistent with good land planning and site engineering design principles.
4. The spacing and design of proposed curb cuts, driveway approaches and intersection locations is consistent with the Access Management Plan, good traffic engineering design and public safety considerations.
5. The plat conforms to any existing, unexpired and valid conditions of rezoning, special use permit or site development plan approval.
6. All submission requirements are satisfied.



**E. Subsequent Applications**

1. When a preliminary plat application is withdrawn or denied, the same application for the same property shall not be resubmitted for a period of one (1) year from the date of withdrawal or denial.
2. A new plat application showing major modifications and/or revisions to the withdrawn or denied plat application may be submitted at any time.

**F. Scope of Approval**

1. Approval of a preliminary plat does not constitute acceptance of the subdivision, but authorizes preparation of the final plat. No improvements shall take place in the subdivision prior to approval and recording of the final plat and submittal and approval of street, sanitary sewer, water line and storm sewer construction plans by the City Engineer.
2. Preliminary plat approval is effective for a period of two (2) years, ~~except approval of a final plat for any phase specifically indicated on the preliminary plat shall renew the two (2) year time period.~~ Where a final plat for the subdivision is not submitted for approval within the two (2) year time period, the preliminary plat becomes null and void and the developer shall resubmit a new preliminary plat for approval subject to the then effective regulations.

The Chief Planning and Development Officer may, upon written request by the applicant, administratively grant a one (1) year time extension. Consideration for a time extension shall be based upon, but not limited to:

- a) the developer's ability to adhere to any changes in the Olathe Municipal Code or other applicable regulations, that would impact the proposed development; or
  - b) if the developer demonstrates substantial progress towards the design and engineering requirements necessary to submit a final plat.
3. When a preliminary plat containing a gross land area in excess of forty (40) acres is submitted for approval, the applicant ~~will~~ **may** indicate the **anticipated development or phasing pattern** for final platting. The applicant may receive an extension of the one (1) year time limit for submission of the final plat if each phase is constructed in accordance with the original phasing plan and subsequent final plats comply with all applicable regulations at the time of final platting. For developments which will be built in phases with a gross area less than forty (40) acres the City may require submittal of a phasing plan. The phasing plan for development shall include the following:
    - a) Illustrative maps for each proposed phase which clearly mark in heavy lines the boundaries of the subject phase, label the phase alphabetically (to avoid confusion with

lot numbers), and identify approximate area, number of lots in each phase, total area and buildable area per phase. All phasing maps shall be drawn at the same scale. The final phasing plan map should be drawn at the same scale as the preliminary plat map.

- b) Any deviation from the approved phasing may be approved administratively by the Planning Official.

~~4. Any preliminary plat or preliminary development plan for a single-family subdivision in an existing RP-1 District approved prior to the effective date of this ordinance (June 17, 2014), where no final plat or plan has been approved, shall be considered expired and subject to a new application and the provisions of this ordinance.~~

### G. Recordkeeping

A preliminary plat application is not recorded. The Planning Official will maintain a record of approved preliminary plats. The applicant must maintain a copy of the approved preliminary plat, including any attachments. (Ord. 17-52 §§ 25, 41, 2017; Ord. 16-20 § 4, 2016; Ord. 02-54 § 2, 2002)”

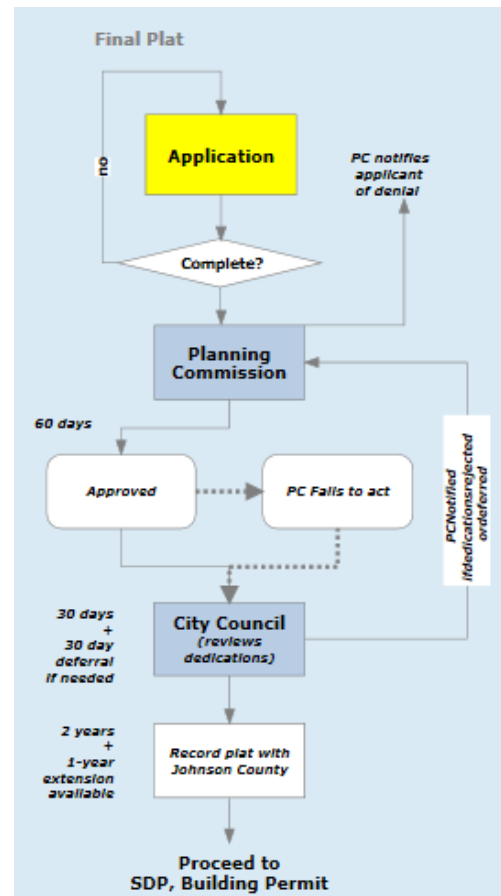
**SECTION FIVE:** Section 18.40.160 of the Olathe Municipal Code (Unified Development Ordinance) is hereby amended to read as follows:

#### “18.40.160 Final Plat

*Purpose: This section establishes the process to approve formal plats for recording with the Johnson County register of deeds.*

#### A. Applicability

1. This section applies to any formal plat application. Final plat applications are filed after the preliminary plat is approved.
2. The applicant may file a final plat without first seeking preliminary plat approval. However, in that case the applicant must strictly observe all requirements of this title and may not request a modification of any standards established in Chapter [18.30](#). In addition, the Planning Commission will deny the plat if it does not conform to all applicable requirements within the statutory period for approving a plat.



**B. Initiation**

An application for final plat approval is filed with the Planning Official.

**C. Completeness Review**

See § [18.40.040](#) Completeness Review.

**D. Decision**

1. The Planning Commission will consider the final plat without a public hearing, unless the applicant requests a public hearing.
2. The Planning Commission may approve, approve with conditions, or deny the final plat.
3. The Planning Commission shall render its decision within 60 days after its first meeting after the plat is submitted to the Planning Official. If the Planning Commission fails to timely render its decision, the plat is deemed approved.
4. If the final plat is approved or the Planning Commission fails to render a timely decision, the Planning Official shall issue a certificate upon demand.
5. If the Planning Commission finds that the plat does not conform to subsection [E](#) below, it shall notify the owner or owners of that fact. The notice shall be in writing and shall specify in detail the reasons the plat does not conform to subsection E.
6. If the plat conforms to subsection E, the Planning Commission chair shall endorse on the plat the fact that the plat has been submitted to and approved by the Planning Commission. The secretary of the Planning Commission shall attest the chair's signature.
7. After the final plat is approved, the applicant shall submit it to the Governing Body for review if land is proposed to be dedicated for public purposes. The Governing Body shall approve or disapprove the dedication of land for public purposes within thirty (30) days after the first meeting of the Governing Body following the date of the submission of the plat to the City Clerk. The Governing Body may defer action for an additional thirty (30) days for the purpose of allowing for modifications to comply with the requirements established by the Governing Body. No additional filing fees shall be assessed during that period. The Governing Body shall advise the Planning Commission of its reasons for any deferral or disapproval of any dedication. Acceptance of lands and easements dedicated for public purposes that are approved by the Governing Body shall be endorsed on the plat by the Mayor. The City Clerk shall attest the Mayor's signature. (*Ord. 02-54 § 2, 2002*)
8. No plat shall be filed with the Register of Deeds office unless it bears the endorsement that the land dedicated to public purposes is approved by the Governing Body.

9. All conditions to approval of a subdivision by the Planning Commission or the acceptance of dedications of land by the Governing Body, and all waivers granted by the Planning Commission, shall be clearly stated on the final plat prior to its recording. (*Ord. 02-54 § 2, 2002*)

#### **E. Approval Criteria**

1. The Planning Commission shall approve a final plat if it determines that:
  - a. The final plat substantially conforms to the approved preliminary plat and any applicable conditions of approval.
  - b. The plat conforms to all applicable requirements of the Municipal Code [and Unified Development Ordinance](#), subject only to approved waivers.
2. If the applicant chooses not to submit a preliminary plat, the final plat is subject to the criteria for approving a preliminary plat and to subsection 1, above.

#### **F. Subsequent Applications**

1. A new plat application showing major modifications and/or revisions to the withdrawn or denied plat application may be submitted at any time.

#### **G. Scope of Approval**

1. After the Governing Body endorses its acceptance of lands and easements dedicated for public purposes, the final plat shall be recorded with the Register of Deeds of Johnson County as provided by law. No plat shall be recorded with the Register of Deeds prior to its endorsement by the Mayor.
2. After the applicant provides public improvements assurances and records the final plat, the applicant may construct the improvements shown on the plat and proceed to the building permit approval process.

#### **H. Recordkeeping**

1. Final plats shall be recorded with the Register of Deeds office within two (2) years following Governing Body approval of land dedicated to public purposes. Final plats which are not timely recorded are null and void.
2. No plat shall be recorded before the applicant submits satisfactory assurances for construction of public improvements.

#### **I. Final Plat Extensions**

1. Requests for final plat extension shall be made in writing to the Planning Official prior to the two (2) year expiration date provided above. Final plat extensions may only be granted by one of the following:

a. The Planning Official may administratively grant a one (1) year extension if no changes are made to any City ordinance, regulation or approved plans that would require a change in the final plat. The applicant may appeal the Planning Official's denial of an extension to the Planning Commission.

b. The Planning Commission, upon appeal from the Planning Official's decision to deny a final plat extension, may grant the one (1) year extension upon finding that the extension will not impact the City's ability to administer current ordinances or regulations.

2. Final plat extensions are subject to all current excise taxes and/or development fees at the time of the extension approval. (*Ord. 15-16 §3, 2015*)”

**SECTION SIX:** Section 18.50.160 of the Olathe Municipal Code (Unified Development Ordinance) is hereby amended to read as follows:

**“18.50.160 Quarries and Mines**

*Purpose. This section regulates the externalities of quarries.*

**A. Applicability**

This section applies to mines or quarries.

**B. Generally**

~~All M~~mines and quarries shall follow all Federal, State, and ~~local Olathe Municipal Code guidelines~~ and requirements, including those ~~found in Title 16 of the Olathe Municipal Code as well as~~ requirements found in any special use permit governing a specific site. ~~for blasting and vibration. In the event that multiple requirements exist, including those for blasting and vibration, the stricter standard shall be controlling over the land use activity on the site.~~

**C. Roads**

1. Proposed quarry operations shall provide or have direct access to a public road.
2. Public and private roads shall be hard-surfaced and built to carry the heavy loads that are generated from quarry operations.

**D. Setbacks for Above-Ground Operations**

1. All above-ground operations shall be located at least:
  - a. One hundred (100) feet from any property line except as provided below.
  - b. One thousand (1,000) feet from an existing residence or the nearest property line of a residentially zoned property, whichever achieves the greatest overall setback.
2. The Planning Commission or Governing Body may reduce the property line setback where it abuts a highway or railroad right-of-way by up to fifty (50) percent.
3. The Planning Commission or Governing Body may reduce the residential setback by up to ninety (90) percent if the applicant shows that compliance with the City ordinances related to noise, dust, visibility and operations will adequately protect the residents from the above-ground operations, or upon approval of the residence owner.
4. The above setbacks may be increased upon the City's determination that wider setbacks are warranted ~~in order~~ to mitigate adverse impacts. ~~All above-ground operations located next to existing mine or quarry operations require no setback, and may be immediately adjacent.~~
5. A setback for above-ground operation is not required when the operation is located contiguous to another existing mine or quarry operation.

#### **E. Setbacks for Below-Ground Operations**

All below-ground operations shall be located at least two hundred (200) feet from the nearest property line, measured laterally.

#### **~~F. Vibration~~**

- ~~1. Ground-transmitted vibration shall not exceed two-tenths (0.20) inches per second at the property line or two-hundredths (0.02) inches per second measured at any residential property line.~~
- ~~2. These values may be multiplied by two (2) for impact vibrations; i.e., discrete vibration pulsations not exceeding one (1) second in duration and having a pause of at least one (1) second between pulses. (Ord. 16-51 § 3, 2016) "~~

**SECTION SEVEN:** Existing sections 18.01.020, 18.30.190, 18.40.110, 18.40.150, 18.40.160 and 18.50.160, are hereby specifically repealed.

**SECTION EIGHT:** This Ordinance shall take effect from and after its publication as provided by law.

**PASSED** by the Governing Body this 4<sup>th</sup> day of December 2018.

**SIGNED** by the Mayor this 4<sup>th</sup> day of December 2018.

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Mayor

ATTEST:

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City Clerk  
(Seal)

APPROVED AS TO FORM:

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City Attorney



## Staff Report

**Planning Commission Meeting: November 26, 2018**

<b>Application:</b>	<b><u>UDO18-0002: Unified Development Ordinance Amendments</u></b>
<b>Applicant:</b>	City of Olathe, Public Works – Planning Services
<b>Staff Contact:</b>	Aimee Nassif, Chief Planning and Development Officer Shelby Ferguson, Planning Consultant

### PROJECT OVERVIEW:

On October 22, 2018, a public hearing was held for staff to present a series of annual updates to the Unified Development Ordinance (UDO). During the meeting, community stakeholders spoke regarding several of these chapter updates. After much discussion, the Planning Commission recommended that the series of updates proceed to City Council for further review and discussion. A motion then passed by a vote of 4-2 to approve UDO18-0002 as presented for sections 18.30.190, 18.40.110.D, 18.40.110.G.5, 18.40.150.F.4, 18.40.160, and 18.50.160 while not recommending the proposed changes to sections 18.40.110.G.1 - 5 and 18.40.150.F.2 & 3.

Since the public hearing, staff continued working on the issues of concern at the hearing and met with those community stakeholders involved. On November 1st, Planning staff shared with City Council the results of the October 22<sup>nd</sup> Planning Commission meeting and the information that staff gathered from the stakeholders after the October 22<sup>nd</sup> meeting.

After discussing this information, the City Council directed the Planning Commission to reconsider its motion on UDO18-0002 to specifically address suggestions of staff and the development community pertaining to those sections not recommended by the Planning Commission.

As you know, the only changes that the Planning Commission originally did not recommend pertained to procedures for plans and plats found in Chapter 18.40. However, the entire package of UDO amendments in UDO18-0002 is being presented simply so that this project can continue to move through the process as a single, unified project. Therefore, staff's recommended language for the other chapters of UDO pertaining to final plats and quarries/mines (blasting), which the Planning Commission did recommend approval on, is part of this package but not being recommended for further review or changes.



This staff report is organized as follows. First, immediately below is a list and brief description of each of those updates as presented October 22, 2018. Those sections originally recommended by the Planning Commission to be removed from this series of updates are also provided below with “strikethrough” formatting. Next, the report reviews the UDO updates which the Planning Commission recommended for approval at the October 22 Public Hearing. Then, the report covers the UDO updates which the Planning Commission did not recommend for approval at the October 22 Public Hearing. In that section, Staff discusses some additional changes to these provisions. Finally, the report summarizes all of Staff’s recommended UDO updates.

Again, the same chapters which were presented at the October 22 Public Hearing are being presented this evening (November 26, 2018) for reconsideration with staff recommendations.

## **1. Chapter 18.30 Development Standards**

### **a. Section 18.30.190 Performance Standards**

- i. Subsection (C) add language directing the reader to Section 18.50.160.
- ii. Subsection (C) renumber section within subsection C.

## **2. Chapter 18.40 Procedures**

### **a. Section 18.40.110 Site Development Plans**

- i. Subsection (D.1.a) remove inconsistent language pertaining to notice requirements.
- ii. Subsection (D.1.b) add language clarifying notice requirements for preliminary site plans.
- ~~iii. Subsection (G.1) add language expiring preliminary site development plans, if a final development plan is not approved within two (2) years.~~
- ~~iv. Subsection (G.2) add language requiring a phasing pattern for site development plans which include multiple lots.~~
- ~~v. Subsection (G.3) add language clarifying the applicant must submit and obtain approval for a final site development plan within the designated time period for the plan to remain valid.~~
- ~~vi. Subsection (G.4) add the word “construction” to clarify construction must commence following approval and issuance of building permit.~~
- ~~vii. Subsection (G.5) clarify the review authority for site development plan time period extensions.~~

~~viii. Subsection (G.5) clarify how a preliminary or final development plans expiration time period may be extended.~~

ix. Subsection (G.5) remove inconsistent language pertaining to RP-1 plats and plans.

**b. Section 18.40.150 Preliminary Plat**

~~i. Subsection (F.2) add language allowing the applicant to request a one (1) year extension on for preliminary plats, approved administratively.~~

~~ii. Subsection (F.3) strengthen and clarify phasing plan requirements for preliminary plats over forty (40) acres.~~

iii. Subsection (F.4) remove inconsistent language pertaining to RP-1 plats and plans.

**c. Section 18.40.160 Final Plat**

i. Subsection (E.1.b) clarify that final plats must conform to all requirements of the UDO.

**3. Chapter 18.50 Supplemental Use Regulations**

**a. Section 18.50.160 Quarries and Mines**

i. Subsection (B) add language referencing Title 16 of Municipal Code requirements shall be followed.

ii. Subsection (D.1.b) increase setback requirements for above ground operations.

iii. Subsection (D.4) remove unnecessary verbiage.

iv. Subsection (D.5) add and clarify setback requirements removed from subsection (D.4).

v. Subsection (F) remove vibration standards for consistency with Title 16 of the Municipal Code.

**UDO UPDATES RECOMMENDED FOR APPROVAL AT THE OCT. 22 PUBLIC HEARING:**

Staff will begin the discussion with the UDO Updates recommended for approval by the Planning Commission on October 22, 2018. As stated previously in this report, no changes or updates are being presented or recommended for these sections.

**1. Quarries and Mines****Chapter 18.30. Development Standards*****18.30.190 Performance Standards***

**Recommendation:** Add language to direct the reader to Section 18.50.160 for specific performance standards for operation of quarries and mines.

**Reason:** Section 18.30.190 of the UDO provides performance standards for activities in industrial districts. To improve readability and remove inconsistencies, staff recommends adding language directing the reader to Section 18.50.160 so that all standards specifically pertaining to quarries and mines are found in a single section of code.

Staff is not recommending any changes from what was originally presented and recommended for approval by the Planning Commission on October 22, 2018.

**2. Blasting****Chapter 18.50. Supplemental Use Regulations*****18.50.160 Quarries and Mines***

**Recommendation:** Update vibration standards and setback language pertaining to quarries and mines in Section 18.50.160.

**Reason:** Staff collaborated with staff from the Public Works Department, the Fire Department, and Legal Department, and researched local communities, state regulations, the City Technical Specifications and the National Fire Protection Association (NFPA) Code. Staff is recommending referencing Title 16 of the Olathe Municipal Code for Fire Prevention for vibration standards for blasting as part of quarrying and mining operations. NFPA 495 establishes blasting vibration standards for structures and for drywall construction, sets the limit at .75 ips (inches per second), and for plaster construction, sets the limit at .50 ips.

Staff is not recommending any changes from what was originally presented and recommended for approval by the Planning Commission on October 22, 2018.

Included in this packet you will find a new comment letter provided by Randy Kriesel which the City received on November 19, 2018. Additional information and previous comments can be found in the Planning Commission October 22, 2018 meeting packet provided at the following link: <https://www.olatheks.org/government/boards-commissions-committees/planning-commission/planning-commission-documents/2018-planning-commission-packets>

### 3. Notification Requirements for Preliminary Site Development Plans

#### Chapter 18.40. Procedures

##### ***18.40.110.D.1 Site Development Plans***

**Recommendation:** Clarify when public notice is necessary for preliminary site development plans.

**Reason:** Currently Section 18.40.110.D.1 states under “decision” that a public notice is required for preliminary site development plans if the use is permitted by right. Public hearings are only required for items related to a change in use such as rezonings or special use permits. This is not standard practice and would cause significant delays for the development community.

Staff is not recommending any changes from what was originally presented and recommended for approval by the Planning Commission on October 22, 2018.

### 4. Expiration of Prelim. Plans and Time Extensions for Plans and Plats

#### Chapter 18.40. Procedures

##### ***18.40.110.G Site Development Plans and 18.40.150.F Preliminary Plats***

**Recommendation:** Remove inconsistent language pertaining to RP-1 plats and plans by deleting existing Sections 18.40.110.G.5 and 18.40.150.F.4.

**Reason:** Sections 18.40.110.G.5 and 18.40.150.F.4 currently state that only RP-1 zoned plans and plats expire and reference a date of June 2014 as that was the date of original adoption of the UDO. In addition, other language found here causes confusion because this requirement applies regardless of district boundaries

Staff is not recommending any changes from what was originally presented and recommended for approval by the Planning Commission on October 22, 2018.

### 5. Final Plats

#### Chapter 18.40. Procedures

##### ***18.40.160 Final Plat***

**Recommendation:** Add language to Section 18.40.160.E.1.b to clarify all plats are required to meet UDO requirements.

**Reason:** Currently within the approval criteria for preliminary plats the UDO states preliminary plats are to conform to the development standards within Chapter 18.30. However final plats do not include specific language for conforming to the UDO. Language has been added to clarify final plats are also required to conform to the current standards and requirements set within the UDO.

Staff is not recommending any changes from what was originally presented and recommended for approval by the Planning Commission on October 22, 2018.

## **UDO UPDATES AND STAFF RECOMMENDATIONS PERTAINING TO SECTIONS NOT RECOMMENDED FOR APPROVAL AT THE OCT. 22 PUBLIC HEARING:**

The following UDO updates were not recommended for approval by the Planning Commission, and staff is now presenting these provisions again for reconsideration. Several sections have been updated since the original meeting in October and those changes are provided below. These changes derive from continued discussions and meetings staff had following the October public hearing with community stakeholders and City Council.

### **6. Expiration of Prelim. Plans and Time Extensions for Plans and Plats**

#### **Chapter 18.40. Procedures**

##### ***18.40.110.G.1 Site Development Plans***

**Recommendation:** Add an expiration date on preliminary site development plans (not simply those zoned RP-1) if a final development plan is not approved within **five (5)** years.

**Reason:** Currently, preliminary development plans are the only type of plan or plat which does not have an expiration date associated with it. Including one helps to ensure compliance with current code regulations which can be difficult to maintain if long periods of time lapse between approvals and commencement of construction.

**Original Recommendation:** Originally, the recommendation was to have a two (2) year expiration period with these. Since our meeting, Staff is recommending the language be updated so that the time period for expiration if a final development plan is not submitted and approved be five (5) years. Staff has shared this update with community stakeholders that we have been in contact with throughout the process. While the desire from them would be for no time period to be established, a five (5) year term was one of the original, collaborative suggestions from the group.

## 7. Commencement of Construction

### Chapter 18.40. Procedures

#### **18.40.110.G.4 Site Development Plans**

**Recommendation:** Clarified what is meant by commencement of construction.

**Reason:** Currently, final site development plans become null and void if the time period expires before development commences. Staff has defined commencement to mean the start of construction, which is defined as the issuance of a building permit.

**Original Recommendation:** Staff is not recommending any changes from what was originally presented and recommended for approval by the Planning Commission on October 22, 2018.

## 8. Time-Period Renewal for Preliminary Plats

### Chapter 18.40. Procedures

#### **18.40.150.F.2 Preliminary Plats**

**Recommendation:** Add language to allow clock to reset with each final plat approved for a phased development. Preliminary plats currently expire in two (2) years if a final plat has not been submitted and approved by the City. However, for large scale developments, this can be problematic as phasing is typical with these.

**Reason:** This language will assist the development community by allowing the time period to reset with each phase and will also allow the City the means to ensure that current UDO requirements are met with each phase so that the best quality development is constructed.

**Original Recommendation:** This was not originally presented before the Planning Commission in October. However, from further collaborations with the development community and our stakeholder group, this language has been drafted and recommended for your consideration.

Included in this packet you will find a new comment letter provided by Grata Development which the City received on October 25, 2018.

## 9. Streamlined Administrative Review Process for Preliminary Plat Extensions

### Chapter 18.40. Procedures

#### ***18.40.150.F.2 Preliminary Plat***

**Recommendation:** Add language to allow a streamlined, administrative review extension for preliminary plats.

**Reason:** Section 18.40.150.F.2 currently states preliminary plats expire after two (2) years where a final plat has not been submitted for approval. Language does not currently exist in code to allow for any extensions for preliminary plats. After hearing concerns from the development community, staff has added language to allow a one (1) year extension be granted administratively.

**Original Recommendation:** Staff is not recommending any changes from what was originally presented and recommended for approval by the Planning Commission on October 22, 2018. This language is necessary to allow for time extensions as all other plans and plats allow for time extensions as well.

## 10. Phasing Requirements for Site Development Plans and Preliminary Plats

### Chapter 18.40. Procedures

#### ***18.40.110.G.2 Site Development Plans and 18.40.150.F.3 Preliminary Plats***

**Recommendation:** Update and clarify the requirements for development phasing pertaining to preliminary plats for multiple lot developments.

**Reason:** The UDO requires preliminary plats containing a gross land area in excess of forty (40) acres to submit a phasing pattern at the time of approval for final platting. Staff is recommending that information be included to explain what should be submitted to the City pertaining to how the phasing will occur and that updates or amendments to phasing plans may be considered. In addition, staff recommends that phasing information be required as part of the preliminary plan process as well. This will assist in making decisions pertaining to development proposals and how the ultimate site layout will develop. Also, in this section we are updating the language to reflect that phasing plans are required for development in excess of 40 acres, but phasing information may also be required for smaller developments if directed by the City. This is reflective of our current practice and will be consistent for both plans and plats.

**Original Recommendation:** Originally, staff recommended that phasing be explained by means of a narrative or a phasing plan. In response to concerns from the development community and working with them after the October meeting, staff is recommending that information be provided by means of a phasing plan only. Also, staff has now included language to explain that updates to the phasing of a development can be made for the City to review and is providing flexibility in the standard related to 40 acres or more criteria.

**STAFF RECOMMENDATION:**

To summarize the project before you, Staff continued to collaborate with the development community since the public hearing in October and has provided updated language on sections pertaining to preliminary plats, development phasing and preliminary plans. We believe that these updated recommendations address the major concerns expressed by the development community that we have heard from, as well as achieve the goals of the City. As presented, the impact to plans and plats would result in the following:

Document Type	Expiration	Action Needed Before Expiration	Extension Method
Preliminary Plats	2 years	Submittal of final plat.	Clock resets 2 years for every final plat approval in a phased development. Or, renewal administratively reviewed for one (1) year
Final Plats	2 years	Record after approval.	Administratively reviewed/renewed for one (1) year.
Preliminary Development Plans	5 years	Submittal of final development plan.	Renewal administratively reviewed for up to twelve (12) months, Or renewal for any length of time by the Governing Body.
Final Development Plans	2 years	Commence construction.	Renewal administratively reviewed for up to twelve (12) months, Or renewal for any length of time by the Governing Body.

Language previously recommended for approval by the Planning Commission is also being presented and no additional changes are being requested or recommended by Staff. Staff recommends approval of the proposed amendments to the *Unified Development Ordinance (UDO)*, as detailed in the attached UDO Amendments Exhibit for the following Chapters and associated subsections herein: 18.30.190, 18.40.110, 18.40.150, 18.40.160, and 18.50.160. Below is also a list of specific amendments being presented and recommended for approval.



## **1. Chapter 18.30 Development Standards**

### **a. Section 18.30.190 Performance Standards**

- i. Subsection (C) add language directing the reader to Section 18.50.160.
- ii. Subsection (C) renumber section within subsection C.

## **2. Chapter 18.40 Procedures**

### **a. Section 18.40.110 Site Development Plans**

- i. Subsection (D.1.a) remove inconsistent language pertaining to notice requirements.
- ii. Subsection (D.1.b) add language clarifying notice requirements for preliminary site plans.
- iii. Subsection (G.1) add language expiring preliminary site development plans if a final development plan is not approved within five (5) years.
- iv. Subsection (G.2) add language requiring a phasing pattern for site development plans containing forty (40) acres.
- v. Subsection (G.3) add language clarifying the applicant must submit and obtain approval for a final site development plan within the designated time period for the plan to remain valid.
- vi. Subsection (G.4) add the word “construction” to clarify construction must commence following approval and issuance of building permit.
- vii. Subsection (G.5) clarify the review authority for site development plan time period extensions.
- viii. Subsection (G.5) clarify how a preliminary or final development plans expiration time period may be extended.
- ix. Subsection (G.5) remove inconsistent language pertaining to RP-1 plats and plans.

### **b. Section 18.40.150 Preliminary Plat**

- i. Subsection (F.2) add language allowing the applicant to request a one (1) year extension on for preliminary plats, approved administratively.
- ii. Subsection (F.2) add language stating that time period for a preliminary plat resets with submittal and approval of each final plat for any phase of the preliminary plat.

- iii. Subsection (F.3) strengthen and clarify phasing plan requirements for preliminary plats over forty (40) acres.
- iv. Subsection (F.4) remove inconsistent language pertaining to RP-1 plats and plans.

**c. Section 18.40.160 Final Plat**

- i. Subsection (E.1.b) clarified final plats must conform to all requirements of the UDO.

**3. Chapter 18.50 Supplemental Use Regulations**

**a. Section 18.50.160 Quarries and Mines**

- i. Subsection (B) add language referencing Title 16 of Municipal Code requirements shall be followed.
- ii. Subsection (D.1.b) increase setback requirements for above ground operations.
- iii. Subsection (D.4) remove unnecessary verbiage
- iv. Subsection (D.5) add and clarify setback requirements removed from subsection (D.4).
- v. Subsection (F) remove vibration standards for consistency with Title 16 of the Municipal Code.

Attached please find a copy of the redline version of the updated sections, a quick reference exhibit, as well as comment letters from individuals in the community as discussed previously in this report. Additional information and previous comments can be found in the Planning Commission October 22, 2018 meeting packet provided at the following link: <https://www.olatheks.org/government/boards-commissions-committees/planning-commission/planning-commission-documents/2018-planning-commission-packets>

## **18.30.190 Performance Standards**

In some districts, performance standards capable of quantitative measurement are established. Except to the extent modified in the specific zoning district regulations, the following general provisions apply to measure compliance with those performance standards.

### **A. Noise**

See Noise Control Ordinance (Chapter [6.18](#) of the Municipal Code).

### **B. Smoke and Particulate Matter**

1. The Ringlemann Chart, as adopted and published by the United States Department of Interior, Bureau of Mines, shall be used to determine the density of equivalent opacity of smoke. The Ringlemann number indicated as the performance standard in certain zoning districts refers to the number of the area of the Ringlemann Chart that coincides most nearly with the visual density of equivalent opacity of the emission of smoke observed.
2. Within the M-1, M-2 and M-3 zoning districts, no use shall be permitted or operated so that smoke darker than Ringlemann No. 1 is produced from any vent, stack or chimney. However, emission of smoke darker than Ringlemann No. 2 is allowed for a duration of up to four (4) minutes during any eight (8) hour period if the emission is located no closer than two hundred fifty (250) feet from property zoned AG, any residential zoning district, N, or the residential areas of planned developments.
3. Particulate matter emissions, in excess of the threshold limit values caused by the wind from open storage areas, yards, roads, etc., within lot lines shall be kept to a minimum by appropriate landscaping, paving, oiling, wetting and other means, or shall be eliminated.

### **C. Vibration**

[1. Vibration standards for any use, other than quarries and mines, are found within this section. For minimum standards for quarry and mine operations, see section 18.50.160 of this UDO.](#)

~~12.~~ Within the M-1, M-2 and M-3 zoning districts, no use may generate any ground-transmitted vibration in excess of one tenth (.10) inch per second measured at the property line, or in excess of two-one hundredths (.02) inch per second measured at any residential property line. These values may be multiplied by two (2) for impact vibrations, i.e., discrete vibration pulsations not exceeding one (1) second in duration and having a pause of at least one (1) second between

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pulses. Vibrations are measured in particle velocity and are to be measured at the property line or other designated location.

**32.** A three-component measuring system capable of simultaneous measurement of vibration in three mutually perpendicular directions shall be used to measure vibrations.

**43.** The vibration maximums indicated as the performance standard in certain zoning districts may be measured directly with suitable instrumentation or computed on the basis of displacement and frequency. When computed, the following formula shall be used:

$$PV = 6.28 F \times D$$

Where:

PV = particle velocity, inches-per second

F = vibration frequency, cycles-per second

D = single amplitude displacement of the vibration,  
inches

**54.** The maximum particle velocity shall be in the maximum vector sum of three mutually perpendicular components recorded simultaneously.

**65.** Unless specifically indicated to the contrary in the zoning district regulations, vibration resulting from temporary construction activity that occurs between 7:00 AM and 7:00 PM is exempt from the indicated performance standard.

#### **D. Glare**

See Lighting (Section [18.30.135](#)).

**1.** Within the M-1, M-2 and M-3 districts, direct or sky-reflected glare, from floodlights or from high temperature processes such as combustion or welding, shall not be directed into any adjoining property.

#### **E. Heat**

Within the M-1, M-2 and M-3 districts, heat from furnaces, processing equipment, or other devices shall be contained so that the temperature of air or materials is raised no more than five (5) degrees Fahrenheit as measured at all property lines.

**F. Emissions**

Within the M-1, M-2 and M-3 districts, the maximum rate of emission of dust and other particulate matter from all sources within the boundaries of any lot or tract shall not exceed one (1) pound per hour per acre of lot area.

**G. Air Contaminants (such as Odors and Fumes)**

Within the M-1, M-2 and M-3 districts, the emission of air contaminants created by industrial processes shall comply with the Kansas Air Quality Act, K.S.A. § [65-3002](#) and any adopted state regulations. All air contaminants shall be contained so that no odors or fumes may be sensed at the property line of any residential zoning district.

**H. Electrical Issues**

Within the M-1, M-2 and M-3 districts, activity which creates any off-site electrical disturbance, or contributes to interference with electronic signals (including television and radio broadcasting transmissions) shall be prohibited.

**I. Toxic or Flammable Liquids**

Storage of toxic or flammable liquids such as gasoline, oil or grease, where not stored underground, shall occur in such a manner that a secondary storage system is provided with capacity as specified by the Fire Code.

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### 18.40.110 Site Development Plans

*Purpose: A site development plan is a process that allows City staff and the Planning Commission to review significant developments and uses to ensure that they comply with the zoning and development standards in this title, have appropriate design and infrastructure, and comply with any conditions of rezoning, preliminary subdivision plat, or special use permit approval.*

#### A. Applicability

1. A **preliminary site development plan** is required for:

a. Any application to rezone property:

(1) to a district that allows nonresidential uses or multifamily or two-family dwellings, or

(2) to an "A," "R-1" or "R-2" district where the applicant is proposing a nonresidential development

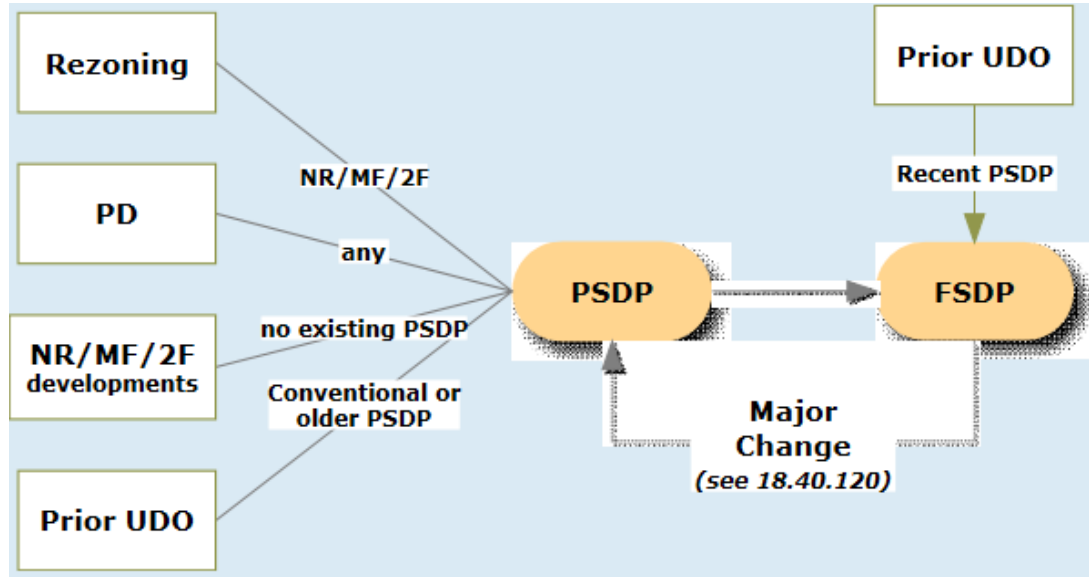
b. All nonresidential uses, or developments with multifamily or two-family dwellings unless a preliminary site development plan for the proposed development was already approved as part of the existing zoning district, and

c. Any application for approval of a planned development district.

2. If a property is subject to an approved and unexpired preliminary site development plan, a **final site development plan** is required before a building permit application is filed.

## B. Initiation

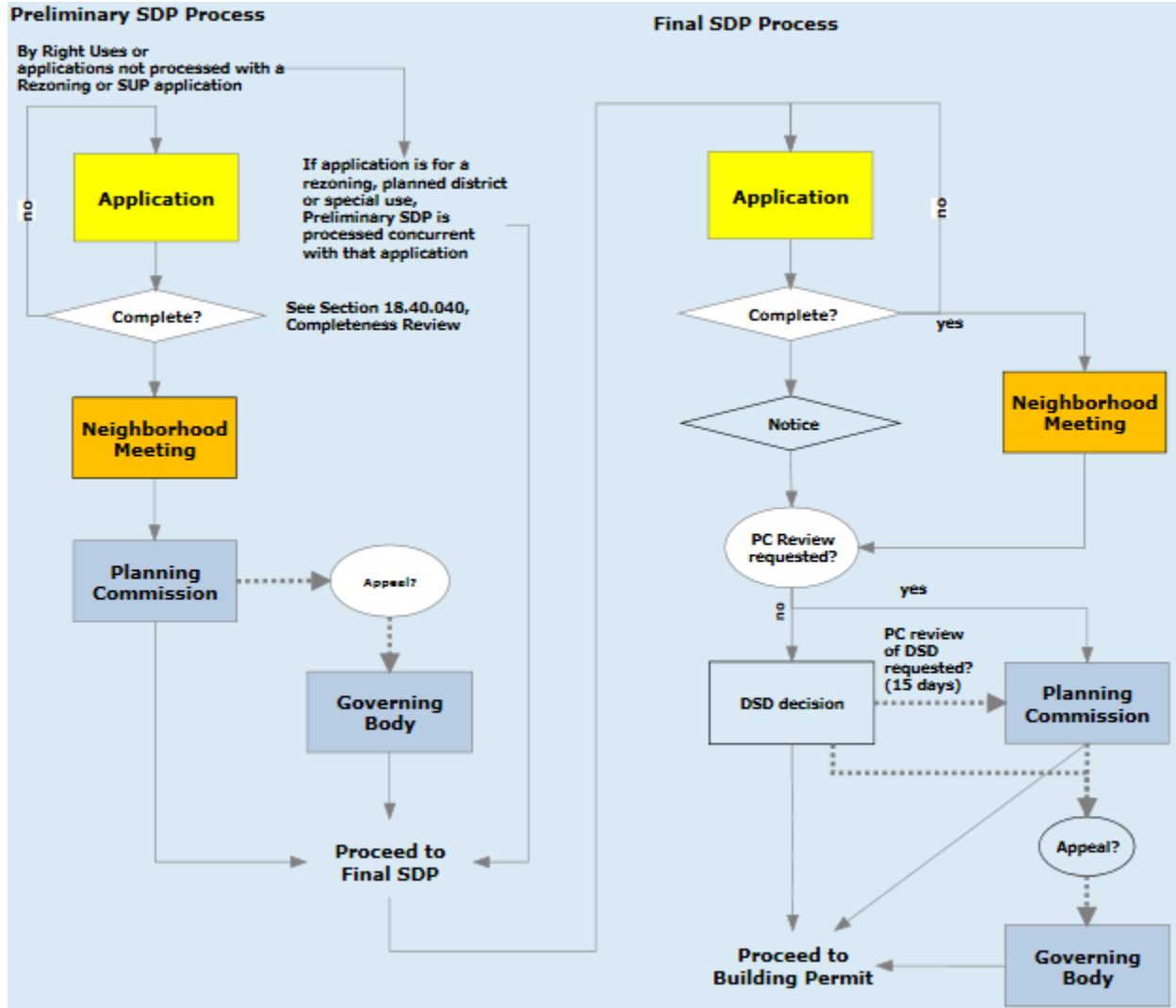
1. Preliminary and final site development plans shall be filed with the Planning Official, and shall include the information required by Chapter [18.94](#).



**Editor's Note:** This diagram referenced "Substantial Change" in Section [18.40.120](#). This terminology has been changed to "Major Change" to match the text of that section.

2. A neighborhood meeting is required for a preliminary and final site development plan (see Section [18.40.030](#)).

## C. Review Process



## D. Decision

### 1. Preliminary Site Development Plan Decision

- a. If the application involves a use that is **permitted by right** in the applicable zoning district, the Planning Commission will approve, conditionally approve, or deny a preliminary site development plan. ~~Notice to surrounding property owners is required (see Section 18.40.050.B).~~ The Planning Commission will render a decision within 30 days, unless the applicant requests additional time in order to revise the application. The applicant may revise the application during this review period without resubmitting the application and paying new filing fees.



**b.** If the application involves a **planned district**, a **rezoning**, or a **special use**, the preliminary site development plan is processed and approved as part of that application. [Notice to surrounding property owners is required \(see Section 18.40.050.B\)](#). The preliminary site development plan may be revised and resubmitted during the review period for the planned district/conditional rezoning or special use permit application review period and approved as part of the conditions of approval. In that case, the Approving Authority is the agency that approves that rezoning or special use.

## **2. Final Site Development Plan Decision**

### **a. Authority**

A final site development plan is approved by the Planning Official, unless the applicant requests Planning Commission review.

### **b. Planning Official Decisions**

If the Planning Official renders a decision on the application:

- (1)** The Planning Official shall render its determination within thirty (30) days after the applicant submits a complete application (see Section [18.40.040](#)), unless the applicant requests additional time in order to revise the application. The applicant may revise the application during this review period without resubmitting the application and paying new filing fees.
- (2)** If the Planning Official fails to render a timely decision, the applicant or a surrounding property owner may request Planning Commission review (see subsection [D.2.c](#) below).
- (3)** If the applicant or surrounding property owner does not request Planning Commission review, the Planning Official's determination is final.
- (4)** If an administrative review application is without communication from the applicant for more than six (6) months, the applicant will be required to submit a new application and fees for the final site development plan review to continue.

### **c. Planning Commission Review**

- (1)** The Planning Commission reviews the final site plan if the applicant asks the Planning Commission to review the final site plan within fifteen (15) days of the date of the Planning Official's decision.
- (2)** The Planning Commission will consider the application without a public hearing.
- (3)** The Planning Commission may approve, approve with conditions, or deny the preliminary or final site development plan.
- (4)** The Planning Commission shall render its decision within 30 days after the applicant requests a review. The Planning Commission may extend the time for making a decision if requested by the applicant.

### **E. Approval Criteria**

- 1.** The following criteria apply to the approval, conditional approval or denial of a preliminary site development plan:
  - a.** The plan complies with all applicable requirements of Chapters [18.15](#), [18.20](#), and [18.30](#), and
  - b.** The plan represents an overall development pattern that is consistent with the Comprehensive Plan, the Major Street Map and other adopted planning policies.
- 2.** A final site development plan is approved if it is consistent with the preliminary site development plan as approved, including all conditions of approval, and complies with all applicable requirements of this title. A final site development plan shall not modify or expand the approved preliminary site development plan, except as provided in Section [18.40.120](#).

### **F. Subsequent Applications**

- 1.** When an application for preliminary or final site plan is withdrawn by the applicant or denied, the same application for the same property shall not be resubmitted for a period of one (1) year from the date of withdrawal or denial.
- 2.** An application for a major modification to the withdrawn or denied application may be submitted at any time.

## G. Scope of Approval

1. Approved preliminary site development plans or final site development plans are valid for ~~two~~five (25) years after ~~final~~ date of approval.

~~2. When a preliminary site development plan containing multiple lots is submitted for approval; the applicant will indicate the anticipated development or phasing pattern for final development. The phasing pattern for development shall include:~~ When a preliminary site development plan containing a gross land area in excess of forty (40) acres is submitted for approval, the applicant will indicate the anticipated development or phasing pattern for final development. For developments which will be built in phases with a gross area less than forty (40) acres the City may require submittal of a phasing plan. The phasing plan for development shall include the following:

- a) Illustrative maps for each proposed phase which clearly mark in heavy lines the boundaries of the subject phase, label the phase alphabetically (to avoid confusion with lot numbers), and identify approximate area, number of lots in each phase, total area and buildable area per phase. All phasing maps shall be drawn at the same scale. The final phasing plan map should be drawn at the same scale as the preliminary site plan map.
- b) Any deviation from the approved phasing may be approved administratively by the Planning Official.

3. If the applicant fails to submit and obtain approvals for a final site development plan within the time period required in subsection G.1, above, the preliminary site development plan becomes null and void unless the time period is extended.

~~24.~~ If the ~~landowner~~ applicant fails to commence construction by means of issuance of a building permit ~~the planned development~~ within the time period required in subsection G.1, above, the final site development plan becomes null and void unless the time period is extended.

~~35.~~ The ~~Approving Authority~~ Chief Planning and Development Officer may extend the time period of a preliminary or final development plan upon written ~~application request~~ by the ~~landowner applicant~~. Unless otherwise required in a condition of approval, the ~~Approving Authority~~ Chief Planning and Development Officer may extend the time period administratively without a public hearing. The ~~Approving Authority~~ Chief Planning and Development Officer shall extend the time period of either site development plan for up to ~~six (6)~~ twelve (12) months. ~~After~~

~~this time period or at the time the original extension is requested,~~ Upon written request by the applicant, the ~~Approving Authority~~ Governing Body may extend the preliminary or final site development plan for any length of time for cause.

~~46.~~ The applicant may revise an approved final site development plan as provided in Section 18.40.120.

~~5. Any preliminary plat or preliminary development plan for a single family subdivision in an existing RP-1 District approved prior to the effective date of this ordinance (June 17, 2014), where no final plat or plan has been approved, shall be considered expired and subject to a new application and the provisions of this ordinance.~~

## **H. Appeals**

The applicant or aggrieved party may appeal the disapproval of a preliminary or final site development plan by the Planning Commission to the Governing Body. The applicant shall file a notice of appeal with the Planning Official within ten (10) days following the decision.

## **I. Recordkeeping**

The Planning Division and the applicant shall maintain copies of the preliminary and final site development plan approvals, and all supporting documentation.

## **J. Abandonment of Final Site Development Plan**

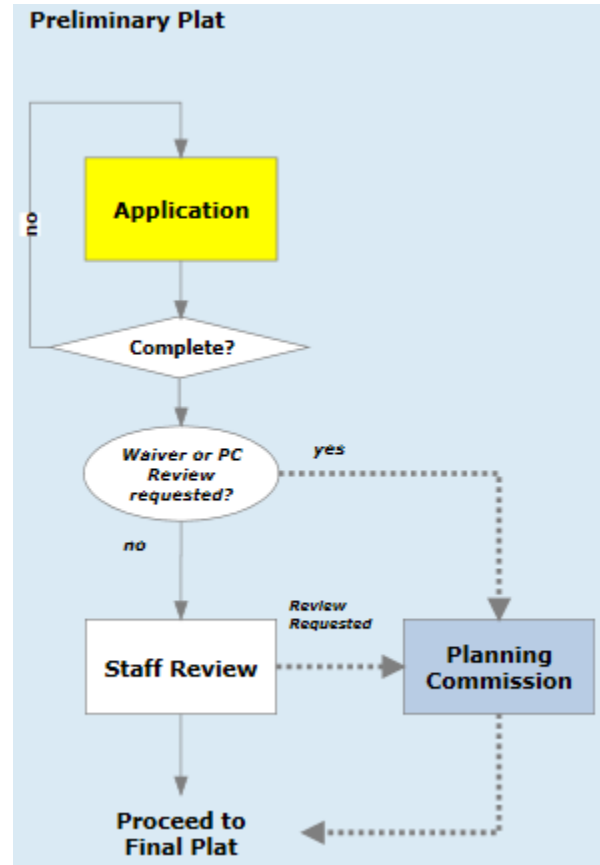
1. If the applicant abandons any part of a site development plan, then the applicant shall notify the City in writing.
2. If any part of a final site development plan is abandoned, no development shall take place on the property until a new final site development plan is approved. (*Ord. 17-52 §§ 22, 41, 2017; Ord. 16-20 § 4, 2016; Ord. 15-16 § 3, 2015*)

### 18.40.150 Preliminary Plat

*Purpose: The preliminary plat process examines the major features and elements of a proposed plat. This process determines whether the plat conforms to this title and the Comprehensive Plan, and any conditions of approval.*

#### A. Applicability

1. The Planning Commission must approve a preliminary plat before a final plat application is filed.
2. A preliminary plat is not considered a "plat" for purposes of KSA [12-752](#). Instead, the preliminary plat is a preapplication process that is designed to ensure that that plat conforms to all applicable requirements of this title. The applicant may request that the City waive the preliminary plat process and proceed directly to the final plat process.



#### B. Initiation

1. An application for preliminary plat approval is filed with the Planning Official. Preapplication is required.
2. An applicant may substitute a preliminary development plan for a preliminary plat if the preliminary development plan contains all information required for preliminary plats as set forth in Chapter [18.94](#).
3. A neighborhood meeting is required (see Section [18.40.030](#))

⇒ Cross-Reference: [18.40.020](#) (Preapplication)

**C. Completeness Review**

See Section [18.40.040](#), Completeness Review.

**D. Approval Criteria**

The Approving Authority shall approve the preliminary plat if it finds that the following criteria are satisfied:

1. The proposed preliminary plat conforms to the requirements of Chapter [18.30](#), the applicable zoning district regulations and any other applicable provisions of the Municipal Code, subject only to acceptable rule exceptions.
2. The subdivision represents an overall development pattern that is consistent with the Comprehensive Plan, Major Street Map, Access Management Plan, and applicable corridor studies and plans.
3. The plat contains a sound, well-conceived parcel and land subdivision layout which is consistent with good land planning and site engineering design principles.
4. The spacing and design of proposed curb cuts, driveway approaches and intersection locations is consistent with the Access Management Plan, good traffic engineering design and public safety considerations.
5. The plat conforms to any existing, unexpired and valid conditions of rezoning, special use permit or site development plan approval.
6. All submission requirements are satisfied.

**E. Subsequent Applications**

1. When a preliminary plat application is withdrawn or denied, the same application for the same property shall not be resubmitted for a period of one (1) year from the date of withdrawal or denial.
2. A new plat application showing major modifications and/or revisions to the withdrawn or denied plat application may be submitted at any time.

**F. Scope of Approval**

1. Approval of a preliminary plat does not constitute acceptance of the subdivision, but authorizes preparation of the final plat. No improvements shall take place in the subdivision

prior to approval and recording of the final plat and submittal and approval of street, sanitary sewer, water line and storm sewer construction plans by the City Engineer.

2. Preliminary plat approval is effective for a period of two (2) years, ~~except approval of a final plat for any phase specifically indicated on the preliminary plat shall renew the two (2) year time period.~~ Where a final plat for the subdivision is not submitted for approval within the two (2) year time period, the preliminary plat becomes null and void and the developer shall resubmit a new preliminary plat for approval subject to the then effective regulations.

The Chief Planning and Development Officer may, upon written request by the applicant, administratively grant a one (1) year time extension. Consideration for a time extension shall be based upon, but not limited to:

- a) the developer's ability to adhere to any changes in the Olathe Municipal Code or other applicable regulations, that would impact the proposed development; or
- b) if the developer demonstrates substantial progress towards the design and engineering requirements necessary to submit a final plat.

3. When a preliminary plat containing a gross land area in excess of forty (40) acres is submitted for approval, the applicant ~~will~~ **may** indicate the **anticipated development or phasing pattern** for final platting. The applicant may receive an extension of the one (1) year time limit for submission of the final plat if each phase is constructed in accordance with the original phasing plan and subsequent final plats comply with all applicable regulations at the time of final platting. For developments which will be built in phases with a gross area less than forty (40) acres the City may require submittal of a phasing plan. The phasing plan for development shall include the following:

- a) Illustrative maps for each proposed phase which clearly mark in heavy lines the boundaries of the subject phase, label the phase alphabetically (to avoid confusion with lot numbers), and identify approximate area, number of lots in each phase, total area and buildable area per phase. All phasing maps shall be drawn at the same scale. The final phasing plan map should be drawn at the same scale as the preliminary plat map.
- b) Any deviation from the approved phasing may be approved administratively by the Planning Official.

~~4. Any preliminary plat or preliminary development plan for a single family subdivision in an existing RP-1 District approved prior to the effective date of this ordinance (June 17, 2014),~~

~~where no final plat or plan has been approved, shall be considered expired and subject to a new application and the provisions of this ordinance.~~

### G. Recordkeeping

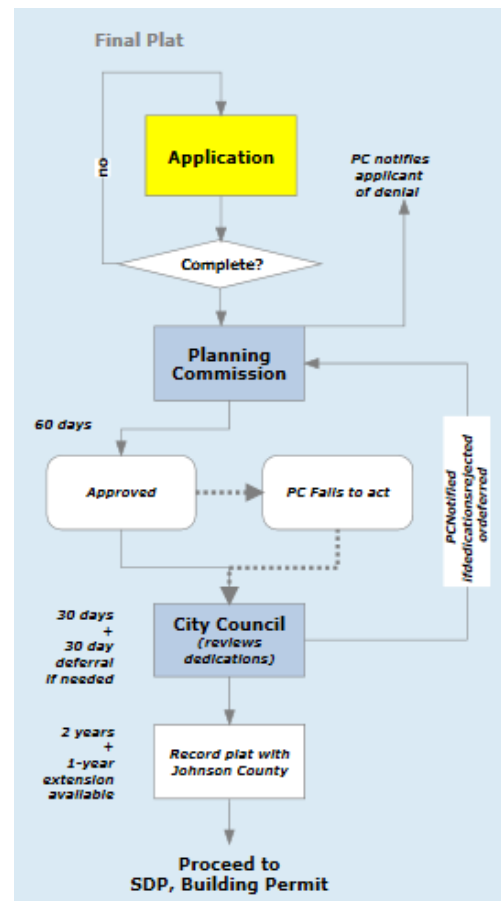
A preliminary plat application is not recorded. The Planning Official will maintain a record of approved preliminary plats. The applicant must maintain a copy of the approved preliminary plat, including any attachments. (Ord. 17-52 §§ 25, 41, 2017; Ord. 16-20 § 4, 2016; Ord. 02-54 § 2, 2002)

## 18.40.160 Final Plat

*Purpose: This section establishes the process to approve formal plats for recording with the Johnson County register of deeds.*

### A. Applicability

1. This section applies to any formal plat application. Final plat applications are filed after the preliminary plat is approved.
2. The applicant may file a final plat without first seeking preliminary plat approval. However, in that case the applicant must strictly observe all requirements of this title and may not request a modification of any standards established in Chapter [18.30](#). In addition, the Planning Commission will deny the plat if it does not conform to all applicable requirements within the statutory period for approving a plat.



### B. Initiation

An application for final plat approval is filed with the Planning Official.

### C. Completeness Review



See § [18.40.040](#) Completeness Review.

#### **D. Decision**

1. The Planning Commission will consider the final plat without a public hearing, unless the applicant requests a public hearing.
2. The Planning Commission may approve, approve with conditions, or deny the final plat.
3. The Planning Commission shall render its decision within 60 days after its first meeting after the plat is submitted to the Planning Official. If the Planning Commission fails to timely render its decision, the plat is deemed approved.
4. If the final plat is approved or the Planning Commission fails to render a timely decision, the Planning Official shall issue a certificate upon demand.
5. If the Planning Commission finds that the plat does not conform to subsection [E](#) below, it shall notify the owner or owners of that fact. The notice shall be in writing and shall specify in detail the reasons the plat does not conform to subsection E.
6. If the plat conforms to subsection E, the Planning Commission chair shall endorse on the plat the fact that the plat has been submitted to and approved by the Planning Commission. The secretary of the Planning Commission shall attest the chair's signature.
7. After the final plat is approved, the applicant shall submit it to the Governing Body for review if land is proposed to be dedicated for public purposes. The Governing Body shall approve or disapprove the dedication of land for public purposes within thirty (30) days after the first meeting of the Governing Body following the date of the submission of the plat to the City Clerk. The Governing Body may defer action for an additional thirty (30) days for the purpose of allowing for modifications to comply with the requirements established by the Governing Body. No additional filing fees shall be assessed during that period. The Governing Body shall advise the Planning Commission of its reasons for any deferral or disapproval of any dedication. Acceptance of lands and easements dedicated for public purposes that are approved by the Governing Body shall be endorsed on the plat by the Mayor. The City Clerk shall attest the Mayor's signature. (*Ord. 02-54 § 2, 2002*)
8. No plat shall be filed with the Register of Deeds office unless it bears the endorsement that the land dedicated to public purposes is approved by the Governing Body.

9. All conditions to approval of a subdivision by the Planning Commission or the acceptance of dedications of land by the Governing Body, and all waivers granted by the Planning Commission, shall be clearly stated on the final plat prior to its recording. (*Ord. 02-54 § 2, 2002*)

#### **E. Approval Criteria**

1. The Planning Commission shall approve a final plat if it determines that:
  - a. The final plat substantially conforms to the approved preliminary plat and any applicable conditions of approval.
  - b. The plat conforms to all applicable requirements of the Municipal Code [and Unified Development Ordinance](#), subject only to approved waivers.
2. If the applicant chooses not to submit a preliminary plat, the final plat is subject to the criteria for approving a preliminary plat and to subsection 1, above.

#### **F. Subsequent Applications**

1. A new plat application showing major modifications and/or revisions to the withdrawn or denied plat application may be submitted at any time.

#### **G. Scope of Approval**

1. After the Governing Body endorses its acceptance of lands and easements dedicated for public purposes, the final plat shall be recorded with the Register of Deeds of Johnson County as provided by law. No plat shall be recorded with the Register of Deeds prior to its endorsement by the Mayor.
2. After the applicant provides public improvements assurances and records the final plat, the applicant may construct the improvements shown on the plat and proceed to the building permit approval process.

#### **H. Recordkeeping**

1. Final plats shall be recorded with the Register of Deeds office within two (2) years following Governing Body approval of land dedicated to public purposes. Final plats which are not timely recorded are null and void.
2. No plat shall be recorded before the applicant submits satisfactory assurances for construction of public improvements.

## **I. Final Plat Extensions**

**1.** Requests for final plat extension shall be made in writing to the Planning Official prior to the two (2) year expiration date provided above. Final plat extensions may only be granted by one of the following:

**a.** The Planning Official may administratively grant a one (1) year extension if no changes are made to any City ordinance, regulation or approved plans that would require a change in the final plat. The applicant may appeal the Planning Official's denial of an extension to the Planning Commission.

**b.** The Planning Commission, upon appeal from the Planning Official's decision to deny a final plat extension, may grant the one (1) year extension upon finding that the extension will not impact the City's ability to administer current ordinances or regulations.

**2.** Final plat extensions are subject to all current excise taxes and/or development fees at the time of the extension approval. (*Ord. 15-16 §3, 2015*)

## 18.50.160 Quarries and Mines

*Purpose. This section regulates the externalities of quarries.*

### A. Applicability

This section applies to mines or quarries.

### B. Generally

All ~~M~~mines and quarries shall follow all Federal, State, and ~~local Olathe Municipal Code guidelines~~ and requirements, including those found in Title 16 of the Olathe Municipal Code as well as requirements found in any special use permit governing a specific site. for blasting and vibration. In the event that multiple requirements exist, including those for blasting and vibration, the stricter standard shall be controlling over the land use activity on the site.

### C. Roads

1. Proposed quarry operations shall provide or have direct access to a public road.
2. Public and private roads shall be hard-surfaced and built to carry the heavy loads that are generated from quarry operations.

### D. Setbacks for Above-Ground Operations

1. All above-ground operations shall be located at least:
  - a. One hundred (100) feet from any property line except as provided below.
  - b. One thousand (1,000) feet from an existing residence or the nearest property line of a residentially zoned property, whichever achieves the greatest overall setback.
2. The Planning Commission or Governing Body may reduce the property line setback where it abuts a highway or railroad right-of-way by up to fifty (50) percent.

3. The Planning Commission or Governing Body may reduce the residential setback by up to ninety (90) percent if the applicant shows that compliance with the City ordinances related to noise, dust, visibility and operations will adequately protect the residents from the above-ground operations, or upon approval of the residence owner.

4. The above setbacks may be increased upon the City's determination that wider setbacks are warranted ~~in order~~ to mitigate adverse impacts. ~~All above-ground operations located next to existing mine or quarry operations require no setback, and may be immediately adjacent.~~

5. A setback for above-ground operation is not required when the operation is located contiguous to another existing mine or quarry operation.

#### **E. Setbacks for Below-Ground Operations**

All below-ground operations shall be located at least two hundred (200) feet from the nearest property line, measured laterally.

#### **~~F. Vibration~~**

~~1. Ground-transmitted vibration shall not exceed two-tenths (0.20) inches per second at the property line or two-hundredths (0.02) inches per second measured at any residential property line.~~

~~2. These values may be multiplied by two (2) for impact vibrations; i.e., discrete vibration pulsations not exceeding one (1) second in duration and having a pause of at least one (1) second between pulses. (Ord. 16-51 § 3, 2016)~~



2018 UDO Updates – Quick Reference Exhibit  
Planning Commission Meeting November 26, 2018

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**1. Chapter 18.30 Development Standards**

**a. Section 18.30.190 Performance Standards**

- i. Subsection (C) add language directing the reader to Section 18.50.160.
- ii. Subsection (C) renumber section within subsection C.

**2. Chapter 18.40 Procedures**

**a. Section 18.40.110 Site Development Plans.**

- i. Subsection (D.1.a) remove inconsistent language pertaining to notice requirements.
- ii. Subsection (D.1.b) add language clarifying notice requirements for preliminary site plans.
- iii. Subsection (G.1) add language expiring preliminary site development plans if a final development plan is not approved within five (5) years.
- iv. Subsection (G.2) add language requiring a phasing pattern for site development plans over forty (40) acres.
- v. Subsection (G.3) add language clarifying the applicant must submit and obtain approval for a final site development plan within the designated time period for the plan to remain valid.
- vi. Subsection (G.4) add the word “construction” to clarify construction must commence following approval and issuance of building permit.
- vii. Subsection (G.5) clarify the review authority for site development plan time period extensions.
- viii. Subsection (G.5) clarify how a preliminary or final development plans expiration time period may be extended.

- ix. Subsection (G.5) remove inconsistent language pertaining to RP-1 plats and plans.

**b. Section 18.40.150 Preliminary Plat.**

- i. Subsection (F.2) add language allowing the applicant to request a one (1) year extension on for preliminary plats, approved administratively.
- ii. Subsection (F.2) add language stating that time period for a preliminary plat resets with submittal and approval of each final plat for any phase on the preliminary plat.
- iii. Subsection (F.3) strengthen and clarify phasing plan requirements for preliminary plats over forty (40) acres.
- iv. Subsection (F.4) remove inconsistent language pertaining to RP-1 plats and plans.

**c. Section 18.40.160 Final Plat.**

- i. Subsection (E.1.b) clarify that final plats must conform to all requirements of the UDO.

**3. Chapter 18.50 Supplemental Use Regulations**

**a. Section 18.50.160**

- i. Subsection (B) add language referencing Title 16 of Municipal Code requirements shall be followed.
- ii. Subsection (D.1.b) increase setback requirements for above ground operations.
- iii. Subsection (D.4) remove unnecessary verbiage.
- iv. Subsection (D.5) add and clarify setback requirements removed from subsection D.4.
- v. Subsection (F) remove vibration standards for consistency with Title 16 of the Municipal Code.

**Shelby Ferguson**

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**From:** Cynthia Kriesel <cann@vfemail.net>  
**Sent:** Monday, November 19, 2018 9:25 AM  
**To:** Aimee Nassif  
**Cc:** Planning Contact; Shelby Ferguson  
**Subject:** UDO 18-0002 - New information comments to be included in packet (RE: UDO 18-0002 Planning Commission Agenda)

**Here are my new comments for the UDO 18-0002 Packet:**

The proposed language changes to 18.30.190 and 18.50.160 would inappropriately remove all vibration restrictions related to non-blasting vibrations. The current language is applicable to vibrations from all quarry operations (including accessory uses), which includes non-blasting vibration producing activities such as:

- Rock Crushing
- Rock Drilling
- Rock Hammering
- Rock Loading/Dumping
- Heavy Machinery Generated Vibrations
- Accessory use vibrations, such as landfill compacting (applicable to quarries with landfill as an accessory use)

Title 16 of the Olathe Municipal Code does not have any restrictions applicable to non-blasting vibrations. There are no requirements in the existing quarry special use permits that address/restrict these types of vibrations (the permits rely on the existing UDO language for limiting those vibrations). So by completely removing the 0.02 inch per second residential property line vibration limit for quarry operations, the draft language would allow unlimited vibration levels at residential property for non-blasting vibrations produced by quarries.

Keeping the 0.02 limit in 18.50.160 is especially important since the UDO allows quarries on AG zoned property, and 18.30.190 does not apply to AG zoning. In addition, the 0.02 limit in 18.050.160 needs to be clarified to make sure it is clear that it means “peak” vibrations, which is what people feel. If not clarified, it could be argued to be non-enforceable in the future (as it has been in the past).

Also I note that Staff’s stated reason for the vibration language change in 18.30.190 is “... so that all standards specifically pertaining to quarries and mines are found in a single section of code.” But what about the other 18.30 development standards that should apply to quarries and mines (Noise, Smoke and Particulate Matter, Glare, Heat, Emissions, Air Contaminants, Electrical Issues, & Toxic or Flammable Liquids)? To follow Staff’s stated reason for the vibration language change, those other development standards also need to be covered in 18.50.160 to get them into a single section of code for quarries and mines. Those performance standards also need to be in 18.50.160 in order to cover all quarries, including those on AG zoned property (18.30 doesn’t cover AG zoned property), or alternatively 18.50.160 could refer back to the 18.30 for those performance standards.

Regards,

Randy Kriesel



24120 West 167<sup>th</sup> Street  
Olathe, KS 66061  
November 19, 2018

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**From:** Aimee Nassif [mailto:AENassif@OLATHEKS.ORG]

**Sent:** Friday, November 09, 2018 3:41 PM

**To:** Cynthia Kriesel; TG Hamm; Waters, David (LG); Jacob Scherer; Pete Heaven (pheaven@spencerfane.com); Courtney Reyes; Todd Allenbrand; Mark Huggins; Brett Richter

**Cc:** Shelby Ferguson

**Subject:** UDO 18-0002 Planning Commission Agenda

On October 22, 2018, the Olathe Planning Commission held a public hearing regarding several proposed amendments to the Olathe Unified Development Ordinance (UDO 18-0002). After much discussion and hearing from several speakers from the development community, the Planning Commission voted 4-2 to recommend approval of UDO 18-0002 to the City Council, but requested that staff's recommendations regarding procedures for plans and plats (UDO 18.40.110) (UDO 18.40.150) be struck.

After the meeting, staff met with some of the members of the development community in an another attempt to reach a consensus on language for UDO 18.40 that would meet the needs of the stakeholders as well as accomplish the City's development goals.

On November 1st, Planning staff shared the results of the October 22nd Planning Commission meeting and the information that staff gathered from the stakeholders with the City Council. The City Council directed the Planning Commission to reconsider its motion on UDO 18-0002 to specifically address suggestions of staff pertaining to those sections stricken by the Planning Commission.

Staff intends to present suggestions regarding procedures for plans and plats (UDO 18.40.110) (UDO 18.40.150) to the Planning Commission for consideration at its November 26th meeting.

The only sections that Planning Commission recommended striking were in Chapter 18.40, but those sections are/were part of a larger comprehensive update to the UDO. Therefore, the entire package of UDO amendments in UDO 18-0002 will be returning to the Planning Commission on November 26th. Staff will focus on reconsideration of the updates regarding procedures for plans and plats (UDO 18.40.110) (UDO 18.40.150), and the result will be incorporated into the larger, comprehensive update known as UDO 18-0002, so that all the amendments may continue through the process together.

The packet for the November 26 meeting will be completed and distributed on Wednesday, November 21. If you have any new information that you would like included in the packet, please provide that to planning by close of business Monday, November 19.

A link to the previous packet with all the documents provided previously for that meeting will be provided to the Planning Commission.

Thank you

*Aimee Nassif, Chief Planning & Dev Officer*

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October 25, 2018

Dear City Council Members,

Grata Development (formerly Day3) is a Residential and commercial developer with 2 active residential developments Boulder Creek (170<sup>th</sup> and Murlen) and Boulder Hills (175<sup>th</sup> & Lackman) and an active Commercial Development at 167<sup>th</sup> and Murlen. We also have 462 acres in Olathe that are currently undeveloped. We are writing to you regarding the newly proposed changes to the Unified Development Ordinance (UDO), specifically concerning the expiration of preliminary and final plats. Over the past few months, our staff has had the opportunity to meet with members of staff both individually and as members of the Kansas City Home Builders Association Roundtable. We have been working diligently to understand the changes to the UDO and how they might impact our business. We have reached the conclusion that the proposal to add expiration dates to preliminary and final plats is detrimental to our businesses and detrimental to future residential and commercial development in Olathe.

It is our desire for you to consider the below facts during your contemplation of these changes:

- A preliminary plat is an agreement between the city and the developer memorializing the developer's vision for the project and how it fits into the requirements of the city.
- Plat expirations discourage large master planned communities, by introducing significant uncertainty and risk on the later phases of development.
- Plat expirations significantly complicate financing for larger developments by introducing the risk of increased government interference in the later phases, which results in decreased profitability.
- Developers make decisions on when to start developments based exclusively on market conditions. Expirations are more likely to cause development to stop rather than start sooner.
- Plat expirations will add additional bureaucracy to an already cumbersome process and extra work for city staff.
- Expirations add uncertainty which has a significant negative impact on property value.

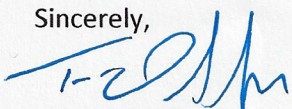
As a group of community minded developers, we are requesting the following considerations:

- If construction has begun on the first phase or final plat of a preliminary plan or plat, they should never expire.
- Preliminary plats should not expire.
- Any extensions granted should be at least 5 years in length.
- Properties that currently have a preliminary plan in place should be grandfathered into any changes in ordinance.

Olathe has had regulations that encourage developers to listen closely to market demand and build homes and developments that meet the needs of these consumers. Consumers have responded to this value proposition at an astounding rate. Never has this been more apparent than the past ten years, while the City of Olathe has been leading Johnson County in residential building permits. Implementation of these changes limit the developers' ability to respond to market demand.

We have made significant investments in Olathe and would like to work with you to create a wonderful place to live and work. However, the proposed changes will discourage development and significantly hinder our ability to achieve that goal.

Sincerely,



Travis Schram  
President



Jon Burrell  
Majority Owner





## MINUTES

### Planning Commission Meeting: November 26, 2018

<b>Application:</b>	<b><u>UDO18-0002</u>: Unified Development Ordinance Amendments</b>
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**Aimee Nassif**, Chief Planning and Development Officer, provided an overview of this item. She said since the last meeting on October 22nd, staff has continued to communicate with stakeholders and the development community. She noted that UDO updates were recommended to proceed forward on October 22nd, striking out updates to 18.40.110 and 18.40.150. Ultimately, City Council has asked the Planning Commission reconsider those items removed,

Ms. Nassif noted that the first section deals with preliminary plans and final plans. The original recommendation was that preliminary plans have an expiration period of two years after date of approval. Staff is recommending this be increased to five years.

The second section for reconsideration deals with commencement of construction. Ms. Nassif noted that staff's recommendation has not changed, and they are recommending approval as previously presented.

The third section for reconsideration has to do with preliminary plat expiration after two years. After further discussion with stakeholders following the October 22<sup>nd</sup> hearing, language has been updated to allow the clock for preliminary plats to renew upon approval of a final plat. This will encourage and promote phasing for large developments. Also, there was a clause written previously where the developer could ask for time extension. That language was struck out on October 22nd, but staff recommends it be put back because preliminary plats should have an ability for an extension. Preliminary plats, final plats and final development plans all have a two-year expiration point. Preliminary plans have five years, which is what is new. And then, every plan or plat has a caveat for time extension or renewal for a developer to ask for. Also, the time extension allowance was increased from six months to 12 months for final development plan.

**Comm. Sutherland** asked Ms. Nassif to define "commencing construction." She responded that commencing construction begins at issuance of the building permit. **Comm. Freeman** asked if the chart would be included in the UDO; Ms. Nassif said a summary may be included in our development manual being drafted.

Ms. Nassif then addressed phasing plans. Currently, preliminary plans require a phasing pattern. She noted that members of the development community had concerns voiced at the October 22nd meeting regarding if their proposed phasing plan changes. She said Section B has been updated at the request of the development community noting that any deviation from the approved phasing plan may be approved administratively and requirement for a narrative removed at the stakeholder's request. She then provided charts outlining an overview of all the amendments as part of UDO18-0002.

**Chair Vakas** appreciates the time that everyone has devoted to this process. He noted that this is not a public hearing and any public comment would be heard on December 4 by City Council. **Comm. Fry** also said he appreciates the work and effort that staff and City Council put into this process. **Comm. Rinke** asked how the development community has reacted to the latest proposal. **Ms. Nassif** hopes they are satisfied, many of the new recommendations have come directly from the development community, and staff has appreciated all their input and work with us. **Comm. Rinke** wished to go on the record, saying that for quarries and blasting he would like to see some type of vibration limit at lower limits than the .75. However, he is supportive of sending this forward to City Council.

There being no other comments, **Chair Vakas** called for a motion.

*Motion by Comm. Fry, seconded by Comm. Sutherland, to recommend approval of UDO18-0002, as follows:*

Staff recommends approval of the proposed amendments to the *Unified Development Ordinance (UDO)*, as detailed in the UDO Amendments Exhibit for the following Chapters and associated subsections herein: 18.30.190, 18.40.110, 18.40.150, 18.40.160, and 18.50.160. Below is also a list of specific amendments being presented and recommended for approval.

## **1. Chapter 18.30 Development Standards**

### **a. Section 18.30.190 Performance Standards**

- i. Subsection (C) add language directing the reader to Section 18.50.160.
- ii. Subsection (C) renumber section within subsection C.

## **2. Chapter 18.40 Procedures**

### **a. Section 18.40.110 Site Development Plans**

- i. Subsection (D.1.a) remove inconsistent language pertaining to notice requirements.
- ii. Subsection (D.1.b) add language clarifying notice requirements for preliminary site plans.
- iii. Subsection (G.1) add language expiring preliminary site development plans if a final development plan is not approved within five (5) years.
- iv. Subsection (G.2) add language requiring a phasing pattern for site development plans containing forty (40) acres.
- v. Subsection (G.3) add language clarifying the applicant must submit and obtain approval for a final site development plan within the designated time period for the plan to remain valid.
- vi. Subsection (G.4) add the word "construction" to clarify construction must commence following approval and issuance of building permit.
- vii. Subsection (G.5) clarify the review authority for site development plan time period extensions.
- viii. Subsection (G.5) clarify how a preliminary or final development plans expiration time period may be extended.
- ix. Subsection (G.5) remove inconsistent language pertaining to RP-1 plats and plans.

**b. Section 18.40.150 Preliminary Plat**

- i. Subsection (F.2) add language allowing the applicant to request a one (1) year extension on for preliminary plats, approved administratively.
- ii. Subsection (F.2) add language stating that time period for a preliminary plat resets with submittal and approval of each final plat for any phase of the preliminary plat.
- iii. Subsection (F.3) strengthen and clarify phasing plan requirements for preliminary plats over forty (40) acres.
- iv. Subsection (F.4) remove inconsistent language pertaining to RP-1 plats and plans.

**c. Section 18.40.160 Final Plat**

- i. Subsection (E.1.b) clarified final plats must conform to all requirements of the UDO.

**3. Chapter 18.50 Supplemental Use Regulations**

**a. Section 18.50.160 Quarries and Mines**

- i. Subsection (B) add language referencing Title 16 of Municipal Code requirements shall be followed.
- ii. Subsection (D.1.b) increase setback requirements for above ground operations.
- iii. Subsection (D.4) remove unnecessary verbiage
- iv. Subsection (D.5) add and clarify setback requirements removed from subsection (D.4).
- v. Subsection (F) remove vibration standards for consistency with Title 16 of the Municipal Code.

*Aye: Sutherland, Freeman, Nelson, Rinke, Fry, Corcoran, Vakas (7)*

*No: (0)*

*Motion was approved 7-0.*



## Staff Report

### Planning Commission Meeting: October 22, 2018

<b>Application:</b>	<b><u>UDO18-0002: Unified Development Ordinance Amendments</u></b>
<b>Applicant:</b>	City of Olathe, Public Works – Planning Services
<b>Staff Contact:</b>	Aimee Nassif, Chief Planning and Development Officer Shelby Ferguson, Planning Consultant

### Overview:

Presented this evening are major areas of updates to the *Unified Development Ordinance* (UDO). Those are for 18.40 procedures for phasing and time expirations and 18.30 and 18.50 pertaining to quarry operations. The first section to be discussed in this report is procedures.

#### 18.40 Procedures

City staff began working on several UDO updates this past summer. After discussions on several cases which had been zoned or platted many years ago and then researching what other municipalities require, staff discussed updating section 18.40 with the governing body. To ensure that older developments, once ready to proceed with platting meet current UDO standards, language for preliminary plats was drafted. This 2-year proposed time matches the time period currently allowed in the UDO for all other plans and plats.

On August 13, 2018 the Planning Division held a Planning Commission workshop and a public hearing on several UDO updates. Many of the updates were simple in nature pertaining to landscape screening and site design layout. However, within the proposed updates staff recommended amendments to Section 18.40 Procedures regarding the expiration of preliminary site development plans. At the time of the public hearing the proposed amendments were intended to bring consistency to the review of plats and plans.

On June 27, staff met with the Home Builder's Association (HBA) on a variety of items which included providing conceptual language for these UDO updates previously discussed with the City Council. Subsequently, we heard from one member of the HBA who expressed concern and asked that preliminary plans have an extended period of 7 years in lieu of 2 years.

On August 13 a workshop was held with the Planning Commission followed by a public hearing. During the public hearing, representatives of the HBA addressed the Planning Commission and expressed concern with the proposed updates to Section 18.40.110 regarding the addition of a two (2) year time expiration for preliminary development plans. Following discussion, the Planning Commission voted to hold the public hearing until a later date to allow staff to continue collaborating with the development community.

Since that time staff has spoken with the HBA and other members of the development community on numerous occasions and met formerly with these stakeholders on: June 27, August 14, August 20, and September 11 on this area of the UDO as well as other future updates as well. Individuals who have participated with us include Pete Heaven, Amy Grant, Mark Huggins and Todd Allenbrand. Throughout these conversations, the development community has continued to express concern with expirations on preliminary plans.

According to those opposed, two (2) year expiration for preliminary plans could result in uncertainties with project approvals, along with concerns for the developer's ability to receive financial guarantees from lenders. Staff has appreciated all the feedback we have received from the community (and other departments as well). From these discussions, to address other concerns we heard from them, we have updated other sections of the UDO that were not originally being addressed. We believe these additional updates will streamline and improve the review process. Some of the language below specifically came from examples shared in these meetings that staff incorporated (such as that from Pete Heaven). This includes:

1. Making time extensions administrative reviews 12 months for final plans and preliminary plans in lieu of 6 months.
2. Providing an option for greater (even unlimited) extensions for final and preliminary plans by the Governing Body.
3. Updated existing language allowing for extensions of preliminary plans which did not otherwise exist.
4. Provided language stating what is necessary in order to be considered for an extension from suggestions provided at our stakeholder meetings.
5. Added language to clarify phasing requirements for large developments (over 40 acres).



**18.30 and 18.50 Quarries, Mines, and Blasting**

Staff has also been collaborating with key stakeholders in the quarry and mining industry to update inconsistencies in the UDO pertaining to vibration standards for quarry and mine operations and blasting.

Staff previously presented draft language to City Council on August 21<sup>st</sup> where it was determined additional research and collaboration with key stakeholders was necessary before moving forward with the proposed amendments. During this meeting there was one speaker, Randy Kriesel, who spoke in opposition of removing the ground vibration standard from section 18.50.160.

Since that time, staff has completed research on local, state, and national regulations along with collaborating with several stakeholders. In addition to working with other city staff, and meetings, discussions have occurred with Randy Kriesel, representatives of HAMM Inc., Vibra-Tech, and Brett Richter with Buckley Powder for completion of this draft for your review. All these individuals have provided helpful feedback and information to staff as we've worked through this process.

On September 7<sup>th</sup> staff met with representatives from HAMM Inc., who are the new owners of the quarry operations located at 159<sup>th</sup> and S. Clare to discuss the updates. Following a workshop with the Planning Commission on October 8, staff met with Mr. Randy Kriesel on October 12<sup>th</sup> to discuss the proposed drafts. At this meeting Mr. Kriesel expressed concerns with the proposed setback language, the removal of the .02 ips ground vibration standards from Section 18.50.160 and recommended that individuals schedule a time to experience a blast.

Out of these discussions and our research, staff is presenting draft language which removes the inconsistency in blasting regulations, locates all quarry and mine operation standards in a single section of code, and clarifies language pertaining to setbacks when near residential properties.

The following is a summary of UDO Section updates which we are recommending as the part of this round's updates. A quick reference exhibit for all recommendations can be found attached, along with a red-line version of the updates and revisions. Please note that the quick reference exhibit has update categories by the relevant Chapter and Section of the UDO.

## **UDO Amendments**

### **1. Quarries and Mines**

#### **Section 18.30. Development Standards**

##### ***18.30.190 Performance Standards***

- a) Recommendation:** Add language to point the reader to Section 18.50.160 for specific performance standards for operation of quarries and mines.

**Reason:** Section 18.30.190 of the UDO provides performance standards for activities in industrial districts. While quarries and mines are found in industrial districts, the UDO provides its own separate chapter on regulations for quarries and mines. To improve readability and remove inconsistencies, staff recommends adding language directing the reader to Section 18.50.160 so that all standards specifically pertaining to quarries and mines are found in a single section of code.

#### **Section 18.50. Supplemental Use Regulations**

##### ***18.50.160 Performance Standards***

- a) Recommendation:** Update vibration standards and setback language pertaining to quarries and mines in Section 18.50.160.

**Reason:** Staff collaborated with Public Works, the Fire Department, and Legal Department and researched local communities, state regulations, the City Technical Specifications and the National Fire Protection Association (NFPA) Code, to draft these updates for your review.

As part of our research, staff has identified three (3) surrounding communities Lenexa, Shawnee and Overland Park to have a vibration standard lower than the proposed .75 ips; which is .02 ips at the residential property line however there are no active quarries in these communities. However, Johnson County, Douglas County, and Bonner Springs all do have active quarries and follow the standards of NFPA 495.

The updated reference to Title 16 of the Olathe Municipal Code for Fire Prevention will require operation of quarries and mines to follow vibration standards for blasting set forth in the National Fire Protection Association (NFPA 495) which states blasting vibration standards for structures of drywall shall use a limit of .75 ips and structures of plaster shall use a limit of .50 ips.

The vibration standards in NFPA and adopted by the City of Olathe are for structural damage and not a nuisance standard. If a nuisance (or zoning) standard is desired, language is included in the redline stating that additional or

stricter requirements may be applied to a site-specific operation within the governing Special Use Permit (SUP). This is consistent with current, active SUP regulations as well as how other municipalities address these operations.

Included in this packet you will find a comment letter provided by Randy Kriesel. No additional documentation since the Planning Commission workshop has been provided however we have provided copies of this packet to all stakeholders that we have been engaged with.

Since the Planning Commission workshop, staff has received comments from both Randy Kriesel and HAMM Inc., which we have used to update the draft. First, staff has removed the proposed setback increase (from areas that are not residential) as it is handled by the special use permit language and can be determined on a case by case basis. Secondly, staff clarified the intent of the setback requirement from residential property to improve readability.

## **2. Procedures (Expiration of Prelim. Plans and Time Extensions for Plans and Plats)**

### **Section 18.40. Procedures**

#### ***18.40.110 Site Development Plans***

- a) Recommendation:** Clarify when public notice is necessary for preliminary site development plans.

**Reason:** Currently Section 18.40.110 states under “decision” a public notice is required for preliminary site development plans if the use is permitted by right. However, this would delay the review process by several months and is also not current practice unless associated with a rezoning or special use permit.

- b) Recommendation:** Add an expiration date on preliminary site development plans (not simply those zoned RP-1) if a final development plan is not approved within two (2) years.

**Reason:** Currently Section 18.40.110.G states that final development plans expire after a 2-year time period. This is to ensure compliance with current code regulations which can be difficult to maintain if long periods of time lapse between approvals and commencement of construction. However, preliminary site development plans have no such time expiration. Language is proposed to add an expiration period similar to that of all other plans and plat types.

Despite numerous conversations, the development community remains concerned with this language and have proposed a longer time. Our research has found that other communities have time limitations of two (2) years or as short as 12 months. However, there are many communities in the area that do not have such a requirement at all. A table outlining our neighboring communities time limits is provided showing our research. We have also provided a table which shows the time expiration period required for all other plans and plats by these same communities.

**Table 1. Neighboring Communities Preliminary Plan Expirations**

	12 mths	15 mths	18 mths	2 yrs	4 yrs	5 yrs	
<b>Olathe</b>				X			-
<b>OP</b>							n/a
<b>Lenexa</b>							n/a
<b>Shawnee</b>							n/a
<b>Leawood</b>							n/a
<b>Gardner</b>				X			-
<b>Mission</b>							n/a
<b>De Soto</b>							n/a
<b>Fairway</b>	X						-
<b>Prairie Village</b>							n/a
<b>Edgerton</b>							n/a
<b>Merriam</b>							n/a
<b>Roeland Park</b>							n/a
<b>Spring Hill</b>							n/a
<b>KCK</b>	X						-
<b>KCMO</b>				X			-

**Table 2. Neighboring Communities Other Plats and Plans Expirations**

	12 mths	15 mths	18 mths	2 yrs	4 yrs	5 yrs
<b>Olathe</b>				All		
<b>OP</b>	-	-	FP, FSP	-	-	-
<b>Lenexa</b>		-	-	All	-	-
<b>Shawnee</b>	PP	-	-	FP, FSP		
<b>Leawood</b>	-	-	-	-	-	FP, FSP
<b>Gardner</b>	-	-	PP	FP, FSP	-	-
<b>Mission</b>	-	-	FP	-	-	-
<b>De Soto</b>	PP	-	SP	-	-	FP (SF)
<b>Fairway</b>	FSP	-	-	-	-	FP (SF)
<b>Prairie Village</b>	-	-	-	-	-	-
<b>Edgerton</b>	PP, FP	-	-	-	-	PUD
<b>Merriam</b>	PP, SP	-	-	-	-	-
<b>Roeland Park</b>	-	FP	FSP	-	-	-
<b>Spring Hill</b>	PP, SP	-	-	-	-	-
<b>KCK</b>	All	-	-	-	-	-
<b>KCMO</b>	FSP	-	-	PP	FP	-

**FP** – Final Plat**PP** – Preliminary Plat**FSP** – Final Site Plan**SP** – Site Plan (*No distinction between Prelim and Final*)**PUD** – Planned Unit Development

In response to concerns, we have added language which would allow for a streamlined, administrative approval of requests for extensions. Staff is also not proposing a limit to the number of extensions that can be requested or approved. We are also proposing that applicants are able to seek Governing Body approval for time periods beyond 12 months. Staff has attached each draft iteration of the plans and plats language, to provide a comprehensive overview of how the proposed amendments have evolved through our discussions with the development community.

During our conversations with the development community we received a letter from Farmers Bank of Kansas City supporting their customers in requesting a 7-year expiration on preliminary plats, this letter is attached for your reference. We have also included letters from Gary Kerns of the HBA and anticipate others would like to participate in the public hearing discussions.

Staff was hopeful that with the other updates and streamline process that this would have addressed all of the development community concerns. Our goal was to update the code to ensure UDO standards are met, while still providing for a streamline process which would not result in delays or issues. Since we have been discussing this for several months now, we felt it was important to proceed forward with the amendments so that you may hear directly from the community and we may receive your recommendation and continue these discussions with the governing body.

- c) Recommendation:** Remove inconsistent language pertaining to RP-1 plats and plans.

**Reason:** Sections 18.40.110.G.5 and 18.40.150.F.4 currently state that only RP-1 zoned plans and plats expire and reference a date of June 2014 as that was the date of original adoption of the UDO. In addition, other language found in these same sections causes confusion because it does not identify that the time restriction applies only to a certain zoning district; it actually is applicable regardless of district boundaries

#### **18.40.150 Preliminary Plat**

- a) **Recommendation:** Add language to allow a streamlined, administrative review extension for preliminary plats.

**Reason:** Section 18.40.150 currently states preliminary plats expire after two (2) years where a final plat has not been submitted for approval. After hearing concerns from the development community, staff has added language to allow a one (1) year extension be granted administratively.

- b) **Recommendation:** Strengthen and clarify the requirements for development phasing pertaining to preliminary plats.

**Reason:** The UDO requires preliminary plats containing a gross land area in excess of forty (40) acres to submit a phasing pattern at the time of approval for final platting. The added language provides clarity to the developer and staff for review as to what should be included and what the expectation is for development phasing.

#### **18.40.160 Final Plat**

- a) **Recommendation:** Add language to clarify all plats are required to meet requirements of the UDO.

**Reason:** Currently within the approval criteria for preliminary plats the UDO states preliminary plats are to conform to the development standards within Chapter 18.30. However final plats do not include specific language for conforming to the UDO. Language has been added to clarify final plats are also required to conform to the current standards and requirements set within the UDO.

#### **Staff Recommendation:**

Staff recommends approval of the proposed amendments to the *Unified Development Ordinance (UDO)*, as detailed in the attached UDO Amendments Exhibit for the following Chapters and associated subsections herein: 18.30.190, 18.40.110, 18.40.150, 18.40.160, and 18.50.160.

It should be noted that when this round of updates was originally presented in August it included updates to Section 18.40.110 pertaining to vested rights. We are in the midst of further research and discussion on this section, so it has been removed from this round of UDO amendments and will return at a later date.

Attached please find a copy of the redline version of the updated sections, a quick reference exhibit, as well as comment letters from individuals in the community as discussed previously in this report.

We appreciate the feedback we have received and look forward to continuing to collaborate with the community.

### **18.30.190 Performance Standards**

In some districts, performance standards capable of quantitative measurement are established. Except to the extent modified in the specific zoning district regulations, the following general provisions apply to measure compliance with those performance standards.

#### **A. Noise**

See Noise Control Ordinance (Chapter [6.18](#) of the Municipal Code).

#### **B. Smoke and Particulate Matter**

1. The Ringlemann Chart, as adopted and published by the United States Department of Interior, Bureau of Mines, shall be used to determine the density of equivalent opacity of smoke. The Ringlemann number indicated as the performance standard in certain zoning districts refers to the number of the area of the Ringlemann Chart that coincides most nearly with the visual density of equivalent opacity of the emission of smoke observed.
2. Within the M-1, M-2 and M-3 zoning districts, no use shall be permitted or operated so that smoke darker than Ringlemann No. 1 is produced from any vent, stack or chimney. However, emission of smoke darker than Ringlemann No. 2 is allowed for a duration of up to four (4) minutes during any eight (8) hour period if the emission is located no closer than two hundred fifty (250) feet from property zoned AG, any residential zoning district, N, or the residential areas of planned developments.
3. Particulate matter emissions, in excess of the threshold limit values caused by the wind from open storage areas, yards, roads, etc., within lot lines shall be kept to a minimum by appropriate landscaping, paving, oiling, wetting and other means, or shall be eliminated.

#### **C. Vibration**

1. Vibration standards for any use, other than quarries and mines, are found within this section. For minimum standards for quarry and mine operations, see section 18.50.160 of this UDO.

12. Within the M-1, M-2 and M-3 zoning districts, no use may generate any ground-transmitted vibration in excess of one tenth (.10) inch per second measured at the property line, or in excess of two-one hundredths (.02) inch per second measured at any residential property line. These values may be multiplied by two (2) for impact vibrations, i.e., discrete vibration pulsations not exceeding one (1) second in duration and having a pause of at least one (1) second between

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pulses. Vibrations are measured in particle velocity and are to be measured at the property line or other designated location.

**32.** A three-component measuring system capable of simultaneous measurement of vibration in three mutually perpendicular directions shall be used to measure vibrations.

**43.** The vibration maximums indicated as the performance standard in certain zoning districts may be measured directly with suitable instrumentation or computed on the basis of displacement and frequency. When computed, the following formula shall be used:

$$PV = 6.28 F \times D$$

Where:

PV = particle velocity, inches-per second

F = vibration frequency, cycles-per second

D = single amplitude displacement of the vibration,  
inches

**54.** The maximum particle velocity shall be in the maximum vector sum of three mutually perpendicular components recorded simultaneously.

**65.** Unless specifically indicated to the contrary in the zoning district regulations, vibration resulting from temporary construction activity that occurs between 7:00 AM and 7:00 PM is exempt from the indicated performance standard.

#### **D. Glare**

See Lighting (Section [18.30.135](#)).

**1.** Within the M-1, M-2 and M-3 districts, direct or sky-reflected glare, from floodlights or from high temperature processes such as combustion or welding, shall not be directed into any adjoining property.

#### **E. Heat**

Within the M-1, M-2 and M-3 districts, heat from furnaces, processing equipment, or other devices shall be contained so that the temperature of air or materials is raised no more than five (5) degrees Fahrenheit as measured at all property lines.



**F. Emissions**

Within the M-1, M-2 and M-3 districts, the maximum rate of emission of dust and other particulate matter from all sources within the boundaries of any lot or tract shall not exceed one (1) pound per hour per acre of lot area.

**G. Air Contaminants (such as Odors and Fumes)**

Within the M-1, M-2 and M-3 districts, the emission of air contaminants created by industrial processes shall comply with the Kansas Air Quality Act, K.S.A. § [65-3002](#) and any adopted state regulations. All air contaminants shall be contained so that no odors or fumes may be sensed at the property line of any residential zoning district.

**H. Electrical Issues**

Within the M-1, M-2 and M-3 districts, activity which creates any off-site electrical disturbance, or contributes to interference with electronic signals (including television and radio broadcasting transmissions) shall be prohibited.

**I. Toxic or Flammable Liquids**

Storage of toxic or flammable liquids such as gasoline, oil or grease, where not stored underground, shall occur in such a manner that a secondary storage system is provided with capacity as specified by the Fire Code.

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## 18.50.160 Quarries and Mines

*Purpose. This section regulates the externalities of quarries.*

### A. Applicability

This section applies to mines or quarries.

### B. Generally

All ~~M~~mines and quarries shall follow all Federal, State, and ~~local Olathe Municipal Code guidelines~~ and requirements, including those found in Title 16 of the Olathe Municipal Code as well as requirements found in any special use permit governing a specific site. for blasting and vibration. In the event that multiple requirements exist, including those for blasting and vibration, the stricter standard shall be controlling over the land use activity on the site.

### C. Roads

1. Proposed quarry operations shall provide or have direct access to a public road.
2. Public and private roads shall be hard-surfaced and built to carry the heavy loads that are generated from quarry operations.

### D. Setbacks for Above-Ground Operations

1. All above-ground operations shall be located at least:
  - a. One hundred (100) feet from any property line except as provided below.
  - b. One thousand (1,000) feet from an existing residence or the nearest property line of a residentially zoned property, whichever achieves the greatest overall setback.
2. The Planning Commission or Governing Body may reduce the property line setback where it abuts a highway or railroad right-of-way by up to fifty (50) percent.

3. The Planning Commission or Governing Body may reduce the residential setback by up to ninety (90) percent if the applicant shows that compliance with the City ordinances related to noise, dust, visibility and operations will adequately protect the residents from the above-ground operations, or upon approval of the residence owner.

4. The above setbacks may be increased upon the City's determination that wider setbacks are warranted ~~in order~~ to mitigate adverse impacts. ~~All above-ground operations located next to existing mine or quarry operations require no setback, and may be immediately adjacent.~~

5. A setback for above-ground operation is not required when the operation is located contiguous to another existing mine or quarry operation.

#### **E. Setbacks for Below-Ground Operations**

All below-ground operations shall be located at least two hundred (200) feet from the nearest property line, measured laterally.

#### **~~F. Vibration~~**

~~1. Ground-transmitted vibration shall not exceed two-tenths (0.20) inches per second at the property line or two-hundredths (0.02) inches per second measured at any residential property line.~~

~~2. These values may be multiplied by two (2) for impact vibrations; i.e., discrete vibration pulsations not exceeding one (1) second in duration and having a pause of at least one (1) second between pulses. (Ord. 16-51 § 3, 2016)~~

### 18.40.110 Site Development Plans

*Purpose: A site development plan is a process that allows City staff and the Planning Commission to review significant developments and uses to ensure that they comply with the zoning and development standards in this title, have appropriate design and infrastructure, and comply with any conditions of rezoning, preliminary subdivision plat, or special use permit approval.*

#### A. Applicability

1. A **preliminary site development plan** is required for:

a. Any application to rezone property:

(1) to a district that allows nonresidential uses or multifamily or two-family dwellings, or

(2) to an "A," "R-1" or "R-2" district where the applicant is proposing a nonresidential development

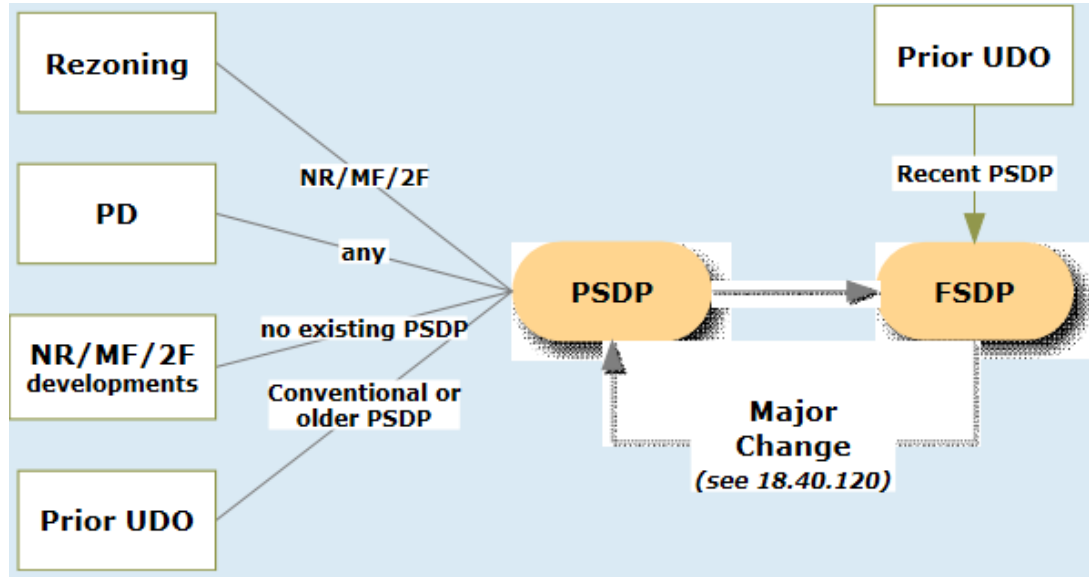
b. All nonresidential uses, or developments with multifamily or two-family dwellings unless a preliminary site development plan for the proposed development was already approved as part of the existing zoning district, and

c. Any application for approval of a planned development district.

2. If a property is subject to an approved and unexpired preliminary site development plan, a **final site development plan** is required before a building permit application is filed.

## B. Initiation

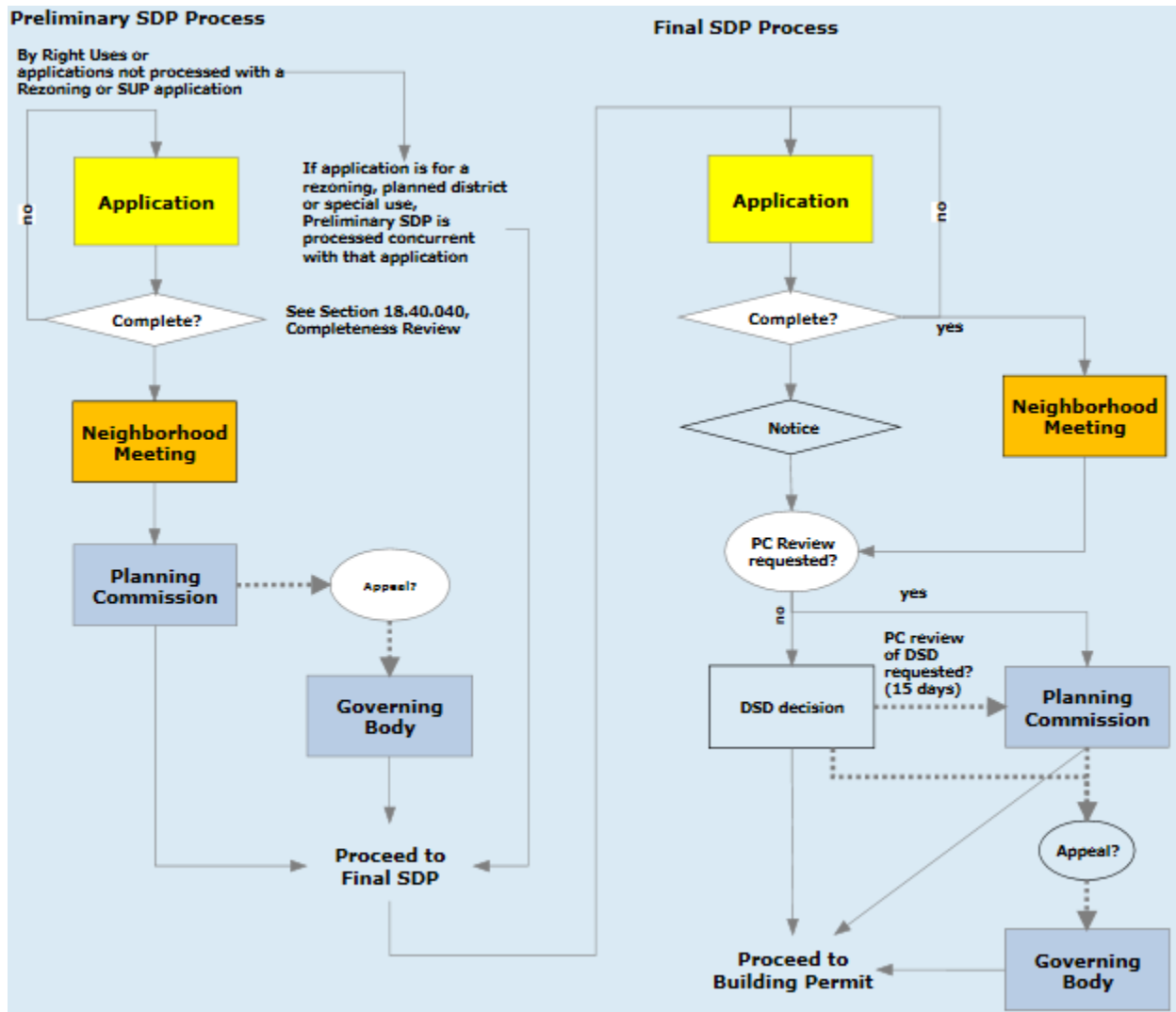
1. Preliminary and final site development plans shall be filed with the Planning Official, and shall include the information required by Chapter [18.94](#).



**Editor's Note:** This diagram referenced "Substantial Change" in Section [18.40.120](#). This terminology has been changed to "Major Change" to match the text of that section.

2. A neighborhood meeting is required for a preliminary and final site development plan (see Section [18.40.030](#)).

## C. Review Process



## D. Decision

### 1. Preliminary Site Development Plan Decision

a. If the application involves a use that is **permitted by right** in the applicable zoning district, the Planning Commission will approve, conditionally approve, or deny a preliminary site development plan. ~~Notice to surrounding property owners is required (see Section 18.40.050.B).~~ The Planning Commission will render a decision within 30 days, unless the applicant requests additional time in order to revise the application. The applicant may revise the application during this review period without resubmitting the application and paying new filing fees.

**b.** If the application involves a **planned district**, a **rezoning**, or a **special use**, the preliminary site development plan is processed and approved as part of that application. [Notice to surrounding property owners is required \(see Section 18.40.050.B\)](#). The preliminary site development plan may be revised and resubmitted during the review period for the planned district/conditional rezoning or special use permit application review period and approved as part of the conditions of approval. In that case, the Approving Authority is the agency that approves that rezoning or special use.

## **2. Final Site Development Plan Decision**

### **a. Authority**

A final site development plan is approved by the Planning Official, unless the applicant requests Planning Commission review.

### **b. Planning Official Decisions**

If the Planning Official renders a decision on the application:

- (1)** The Planning Official shall render its determination within thirty (30) days after the applicant submits a complete application (see Section [18.40.040](#)), unless the applicant requests additional time in order to revise the application. The applicant may revise the application during this review period without resubmitting the application and paying new filing fees.
- (2)** If the Planning Official fails to render a timely decision, the applicant or a surrounding property owner may request Planning Commission review (see subsection [D.2.c](#) below).
- (3)** If the applicant or surrounding property owner does not request Planning Commission review, the Planning Official's determination is final.
- (4)** If an administrative review application is without communication from the applicant for more than six (6) months, the applicant will be required to submit a new application and fees for the final site development plan review to continue.

### **c. Planning Commission Review**

- (1)** The Planning Commission reviews the final site plan if the applicant asks the Planning Commission to review the final site plan within fifteen (15) days of the date of the Planning Official's decision.
- (2)** The Planning Commission will consider the application without a public hearing.
- (3)** The Planning Commission may approve, approve with conditions, or deny the preliminary or final site development plan.
- (4)** The Planning Commission shall render its decision within 30 days after the applicant requests a review. The Planning Commission may extend the time for making a decision if requested by the applicant.

### **E. Approval Criteria**

- 1.** The following criteria apply to the approval, conditional approval or denial of a preliminary site development plan:
  - a.** The plan complies with all applicable requirements of Chapters [18.15](#), [18.20](#), and [18.30](#), and
  - b.** The plan represents an overall development pattern that is consistent with the Comprehensive Plan, the Major Street Map and other adopted planning policies.
- 2.** A final site development plan is approved if it is consistent with the preliminary site development plan as approved, including all conditions of approval, and complies with all applicable requirements of this title. A final site development plan shall not modify or expand the approved preliminary site development plan, except as provided in Section [18.40.120](#).

### **F. Subsequent Applications**

- 1.** When an application for preliminary or final site plan is withdrawn by the applicant or denied, the same application for the same property shall not be resubmitted for a period of one (1) year from the date of withdrawal or denial.
- 2.** An application for a major modification to the withdrawn or denied application may be submitted at any time.



## G. Scope of Approval

1. Approved preliminary site development plans or final site development plans are valid for two (2) years after ~~final~~ date of approval.

2. When a preliminary site development plan containing multiple lots is submitted for approval; the applicant will indicate the anticipated development or phasing pattern for final development. The phasing pattern for development shall include:

- a) Illustrative maps for each proposed phase which clearly mark in heavy lines the boundaries of the subject phase, label the phase alphabetically (to avoid confusion with lot numbers), and identify approximate area, number of lots in each phase, total area and buildable area per phase. All phasing maps shall be drawn at the same scale. The final phasing plan map should be drawn at the same scale as the preliminary site plan map.
- b) A narrative description or table that describes each phase and its associated improvements. In addition, the narrative or table shall demonstrate that each phase would comprise a "stand-alone" development which, should no subsequent phases be constructed, would meet or exceed the standards of this ordinance.

3. If the applicant fails to submit and obtain approvals for a final site development plan within the time period required in subsection G.1, above, the preliminary site development plan becomes null and void unless the time period is extended.

~~24.~~ If the ~~landowner~~ applicant fails to commence construction by means of an issued building permit ~~the planned development~~ within the time period required in subsection G.1, above, the final site development plan becomes null and void unless the time period is extended.

~~35.~~ The ~~Approving Authority~~ Chief Planning and Development Officer may extend the time period of a preliminary or final development plan upon written ~~application request~~ by the ~~landowner~~ applicant. Unless otherwise required in a condition of approval, the ~~Approving Authority~~ Chief Planning and Development Officer may extend the time period administratively without a public hearing. The ~~Approving Authority~~ Chief Planning and Development Officer shall extend the time period of either site development plan for up to ~~six (6)~~ twelve (12) months. ~~After this time period or at the time the original extension is requested,~~ Upon written request by the applicant, the ~~Approving Authority~~ Governing Body may extend the preliminary or final site development plan for any length of time for cause.

~~46.~~ The applicant may revise an approved final site development plan as provided in Section [18.40.120](#).

~~5. Any preliminary plat or preliminary development plan for a single-family subdivision in an existing RP-1 District approved prior to the effective date of this ordinance (June 17, 2014), where no final plat or plan has been approved, shall be considered expired and subject to a new application and the provisions of this ordinance.~~

## **H. Appeals**

The applicant or aggrieved party may appeal the disapproval of a preliminary or final site development plan by the Planning Commission to the Governing Body. The applicant shall file a notice of appeal with the Planning Official within ten (10) days following the decision.

## **I. Recordkeeping**

The Planning Division and the applicant shall maintain copies of the preliminary and final site development plan approvals, and all supporting documentation.

## **J. Abandonment of Final Site Development Plan**

1. If the applicant abandons any part of a site development plan, then the applicant shall notify the City in writing.
2. If any part of a final site development plan is abandoned, no development shall take place on the property until a new final site development plan is approved. (*Ord. 17-52 §§ 22, 41, 2017; Ord. 16-20 § 4, 2016; Ord. 15-16 § 3, 2015*)

### 18.40.150 Preliminary Plat

*Purpose: The preliminary plat process examines the major features and elements of a proposed plat. This process determines whether the plat conforms to this title and the Comprehensive Plan, and any conditions of approval.*

#### A. Applicability

1. The Planning Commission must approve a preliminary plat before a final plat application is filed.
2. A preliminary plat is not considered a "plat" for purposes of KSA [12-752](#). Instead, the preliminary plat is a preapplication process that is designed to ensure that that plat conforms to all applicable requirements of this title. The applicant may request that the City waive the preliminary plat process and proceed directly to the final plat process.

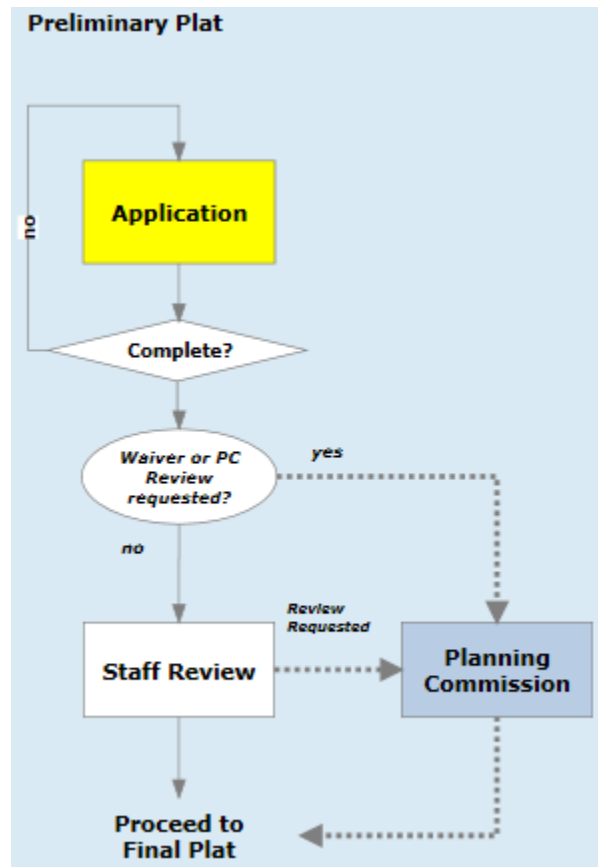
#### B. Initiation

1. An application for preliminary plat approval is filed with the Planning Official. Preapplication is required.
2. An applicant may substitute a preliminary development plan for a preliminary plat if the preliminary development plan contains all information required for preliminary plats as set forth in Chapter [18.94](#).
3. A neighborhood meeting is required (see Section [18.40.030](#))

⇔ Cross-Reference: [18.40.020](#) (Preapplication)

#### C. Completeness Review

See Section [18.40.040](#), Completeness Review.



**D. Approval Criteria**

The Approving Authority shall approve the preliminary plat if it finds that the following criteria are satisfied:

1. The proposed preliminary plat conforms to the requirements of Chapter [18.30](#), the applicable zoning district regulations and any other applicable provisions of the Municipal Code, subject only to acceptable rule exceptions.
2. The subdivision represents an overall development pattern that is consistent with the Comprehensive Plan, Major Street Map, Access Management Plan, and applicable corridor studies and plans.
3. The plat contains a sound, well-conceived parcel and land subdivision layout which is consistent with good land planning and site engineering design principles.
4. The spacing and design of proposed curb cuts, driveway approaches and intersection locations is consistent with the Access Management Plan, good traffic engineering design and public safety considerations.
5. The plat conforms to any existing, unexpired and valid conditions of rezoning, special use permit or site development plan approval.
6. All submission requirements are satisfied.

**E. Subsequent Applications**

1. When a preliminary plat application is withdrawn or denied, the same application for the same property shall not be resubmitted for a period of one (1) year from the date of withdrawal or denial.
2. A new plat application showing major modifications and/or revisions to the withdrawn or denied plat application may be submitted at any time.

**F. Scope of Approval**

1. Approval of a preliminary plat does not constitute acceptance of the subdivision, but authorizes preparation of the final plat. No improvements shall take place in the subdivision prior to approval and recording of the final plat and submittal and approval of street, sanitary sewer, water line and storm sewer construction plans by the City Engineer.

2. Preliminary plat approval is effective for a period of two (2) years. Where a final plat for the subdivision is not submitted for approval within the two (2) year time period, the preliminary plat becomes null and void and the developer shall resubmit a new preliminary plat for approval subject to the then effective regulations. The Chief Planning and Development Officer may, upon written request by the applicant, administratively grant a one (1) year time extension.  
Consideration for a time extension shall be based upon, but not limited to:

- a) the developer's ability to adhere to any changes in the Olathe Municipal Code or other applicable regulations, that would impact the proposed development; or
- b) if the developer demonstrates substantial progress towards the design and engineering requirements necessary to submit a final plat.

3. When a preliminary plat containing a gross land area in excess of forty (40) acres is submitted for approval, the applicant will ~~may~~ indicate the **anticipated development or phasing pattern** for final platting. The applicant may receive an extension of the one (1) year time limit for submission of the final plat if each phase is constructed in accordance with the original phasing plan and subsequent final plats comply with all applicable regulations at the time of final platting. The phasing pattern for development shall include the following:

- a) Illustrative maps for each proposed phase which clearly mark in heavy lines the boundaries of the subject phase, label the phase alphabetically (to avoid confusion with lot numbers), and identify approximate area, number of lots in each phase, total area and buildable area per phase. All phasing maps shall be drawn at the same scale. The final phasing plan map should be drawn at the same scale as the preliminary plat map.
- b) A narrative description or table that describes each phase and its associated improvements. In addition, the narrative or table shall demonstrate that each phase would comprise a "stand-alone" development which, should no subsequent phases be constructed, would meet or exceed the standards of this ordinance.

~~4. Any preliminary plat or preliminary development plan for a single family subdivision in an existing RP-1 District approved prior to the effective date of this ordinance (June 17, 2014), where no final plat or plan has been approved, shall be considered expired and subject to a new application and the provisions of this ordinance.~~

### **G. Recordkeeping**

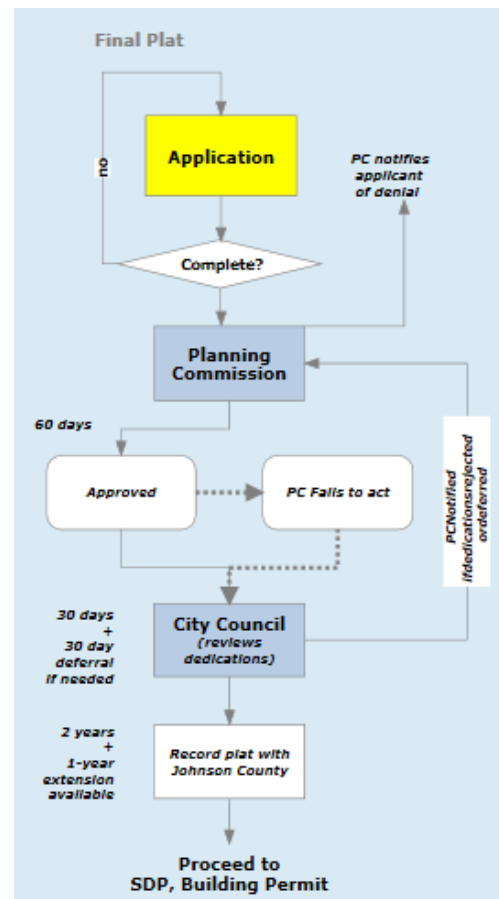
A preliminary plat application is not recorded. The Planning Official will maintain a record of approved preliminary plats. The applicant must maintain a copy of the approved preliminary plat, including any attachments. (*Ord. 17-52 §§ 25, 41, 2017; Ord. 16-20 § 4, 2016; Ord. 02-54 § 2, 2002*)

## 18.40.160 Final Plat

*Purpose: This section establishes the process to approve formal plats for recording with the Johnson County register of deeds.*

### A. Applicability

1. This section applies to any formal plat application. Final plat applications are filed after the preliminary plat is approved.
2. The applicant may file a final plat without first seeking preliminary plat approval. However, in that case the applicant must strictly observe all requirements of this title and may not request a modification of any standards established in Chapter [18.30](#). In addition, the Planning Commission will deny the plat if it does not conform to all applicable requirements within the statutory period for approving a plat.



### B. Initiation

An application for final plat approval is filed with the Planning Official.

### C. Completeness Review

See § [18.40.040](#) Completeness Review.

### D. Decision

1. The Planning Commission will consider the final plat without a public hearing, unless the applicant requests a public hearing.
2. The Planning Commission may approve, approve with conditions, or deny the final plat.

3. The Planning Commission shall render its decision within 60 days after its first meeting after the plat is submitted to the Planning Official. If the Planning Commission fails to timely render its decision, the plat is deemed approved.
4. If the final plat is approved or the Planning Commission fails to render a timely decision, the Planning Official shall issue a certificate upon demand.
5. If the Planning Commission finds that the plat does not conform to subsection E below, it shall notify the owner or owners of that fact. The notice shall be in writing and shall specify in detail the reasons the plat does not conform to subsection E.
6. If the plat conforms to subsection E, the Planning Commission chair shall endorse on the plat the fact that the plat has been submitted to and approved by the Planning Commission. The secretary of the Planning Commission shall attest the chair's signature.
7. After the final plat is approved, the applicant shall submit it to the Governing Body for review if land is proposed to be dedicated for public purposes. The Governing Body shall approve or disapprove the dedication of land for public purposes within thirty (30) days after the first meeting of the Governing Body following the date of the submission of the plat to the City Clerk. The Governing Body may defer action for an additional thirty (30) days for the purpose of allowing for modifications to comply with the requirements established by the Governing Body. No additional filing fees shall be assessed during that period. The Governing Body shall advise the Planning Commission of its reasons for any deferral or disapproval of any dedication. Acceptance of lands and easements dedicated for public purposes that are approved by the Governing Body shall be endorsed on the plat by the Mayor. The City Clerk shall attest the Mayor's signature. (*Ord. 02-54 § 2, 2002*)
8. No plat shall be filed with the Register of Deeds office unless it bears the endorsement that the land dedicated to public purposes is approved by the Governing Body.
9. All conditions to approval of a subdivision by the Planning Commission or the acceptance of dedications of land by the Governing Body, and all waivers granted by the Planning Commission, shall be clearly stated on the final plat prior to its recording. (*Ord. 02-54 § 2, 2002*)

#### **E. Approval Criteria**

1. The Planning Commission shall approve a final plat if it determines that:
  - a. The final plat substantially conforms to the approved preliminary plat and any applicable conditions of approval.



b. The plat conforms to all applicable requirements of the Municipal Code [and Unified Development Ordinance](#), subject only to approved waivers.

2. If the applicant chooses not to submit a preliminary plat, the final plat is subject to the criteria for approving a preliminary plat and to subsection 1, above.

#### **F. Subsequent Applications**

1. A new plat application showing major modifications and/or revisions to the withdrawn or denied plat application may be submitted at any time.

#### **G. Scope of Approval**

1. After the Governing Body endorses its acceptance of lands and easements dedicated for public purposes, the final plat shall be recorded with the Register of Deeds of Johnson County as provided by law. No plat shall be recorded with the Register of Deeds prior to its endorsement by the Mayor.

2. After the applicant provides public improvements assurances and records the final plat, the applicant may construct the improvements shown on the plat and proceed to the building permit approval process.

#### **H. Recordkeeping**

1. Final plats shall be recorded with the Register of Deeds office within two (2) years following Governing Body approval of land dedicated to public purposes. Final plats which are not timely recorded are null and void.

2. No plat shall be recorded before the applicant submits satisfactory assurances for construction of public improvements.

#### **I. Final Plat Extensions**

1. Requests for final plat extension shall be made in writing to the Planning Official prior to the two (2) year expiration date provided above. Final plat extensions may only be granted by one of the following:

a. The Planning Official may administratively grant a one (1) year extension if no changes are made to any City ordinance, regulation or approved plans that would require a change in the final plat. The applicant may appeal the Planning Official's denial of an extension to the Planning Commission.

- b.** The Planning Commission, upon appeal from the Planning Official's decision to deny a final plat extension, may grant the one (1) year extension upon finding that the extension will not impact the City's ability to administer current ordinances or regulations.
- 2.** Final plat extensions are subject to all current excise taxes and/or development fees at the time of the extension approval. (*Ord. 15-16 §3, 2015*)



2018 UDO Updates – Quick Reference Exhibit  
Planning Commission Meeting October 22, 2018

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**1. Chapter 18.30 Development Standards**

**a. Section 18.30.190 Performance Standards**

- i. Subsection (C) add language directing the reader to Section 18.50.160.
- ii. Subsection (C) renumber section within subsection C.

**2. Chapter 18.40 Procedures**

**a. Section 18.40.110 Site Development Plans.**

- i. Subsection (D.1.a) remove inconsistent language pertaining to notice requirements.
- ii. Subsection (D.1.b) add language clarifying notice requirements for preliminary site plans.
- iii. Subsection (G.1) add an expiration date on preliminary site development plans, if a final development plan is not approved within two (2) years.
- iv. Subsection (G.2) include language to require a phasing pattern for site development plans include multiple lots.
- v. Subsection (G.3) include language clarifying the applicant must submit and obtain approval for a final site development plan within the designated time period for the plan to remain valid.
- vi. Subsection (G.4) add the word “construction” to clarify construction must commence following approval and issuance of building permit.
- vii. Subsection (G.5) clarify review authority for site development plan time period extensions.
- viii. Subsection (G.5) update to clarify preliminary or final development plans expiration time period may be extended.
- ix. Subsection (G.5) remove inconsistent language pertaining to RP-1 plats and plans.

**b. Section 18.40.150 Preliminary Plat.**

- i. Subsection (F.2) add language to allow the applicant to request a one (1) year extension on for preliminary plats, approved administratively.
- ii. Subsection (F.3) strengthen and clarify phasing plan requirements for preliminary plats over forty acres.
- iii. Subsection (F.4) remove inconsistent language pertaining to RP-1 plats and plans.

**c. Section 18.40.160 Final Plat.**

- i. Subsection (E.1.b) clarified final plats must conform to all requirements of the UDO.

**3. Chapter 18.50 Supplemental Use Regulations**

**a. Section 18.50.160**

- i. Subsection (B) add in language referencing Title 16 of Municipal Code requirements shall be followed.
- ii. Subsection (D.1.b) increase setback requirements for above ground operations.
- iii. Subsection (D.4) remove unnecessary verbiage
- iv. Subsection (D.5) add and clarify setback requirements removed from subsection D.4.
- v. Subsection (F) remove vibration standards for consistency with Title 16 of the Municipal Code.

### **18.40.110 Site Development Plans**

*Purpose: A site development plan is a process that allows City staff and the Planning Commission to review significant developments and uses to ensure that they comply with the zoning and development standards in this title, have appropriate design and infrastructure, and comply with any conditions of rezoning, preliminary subdivision plat, or special use permit approval.*

#### **A. Applicability**

**1. A preliminary site development plan** is required for:

**a.** Any application to rezone property:

**(1)** to a district that allows nonresidential uses or multifamily or two-family dwellings,  
or

**(2)** to an "A," "R-1" or "R-2" district where the applicant is proposing a nonresidential development

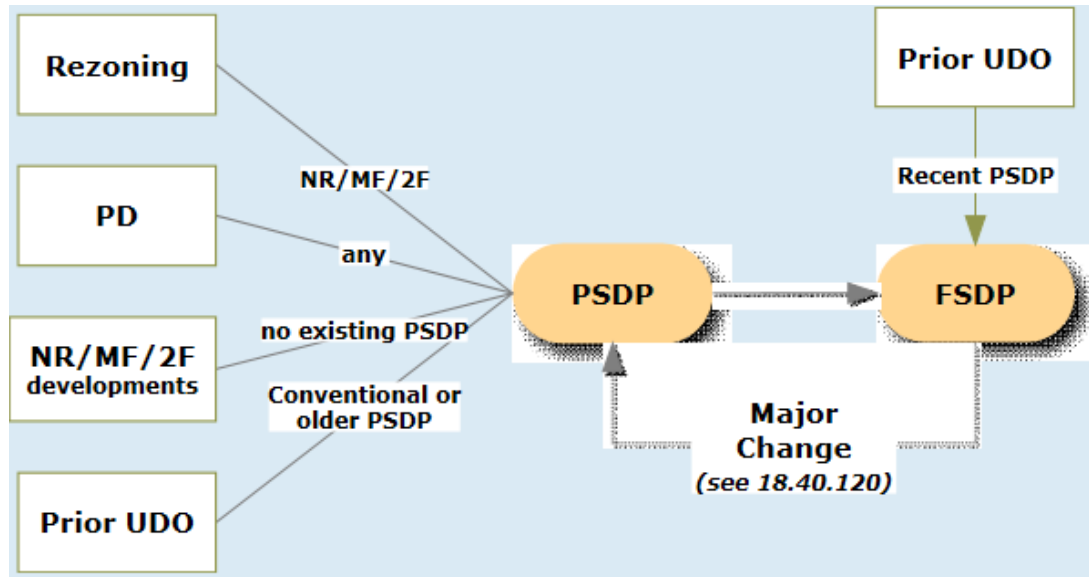
**b.** All nonresidential uses, or developments with multifamily or two-family dwellings unless a preliminary site development plan for the proposed development was already approved as part of the existing zoning district, and

**c.** Any application for approval of a planned development district.

**2.** If a property is subject to an approved and unexpired preliminary site development plan, a **final site development plan** is required before a building permit application is filed.

## B. Initiation

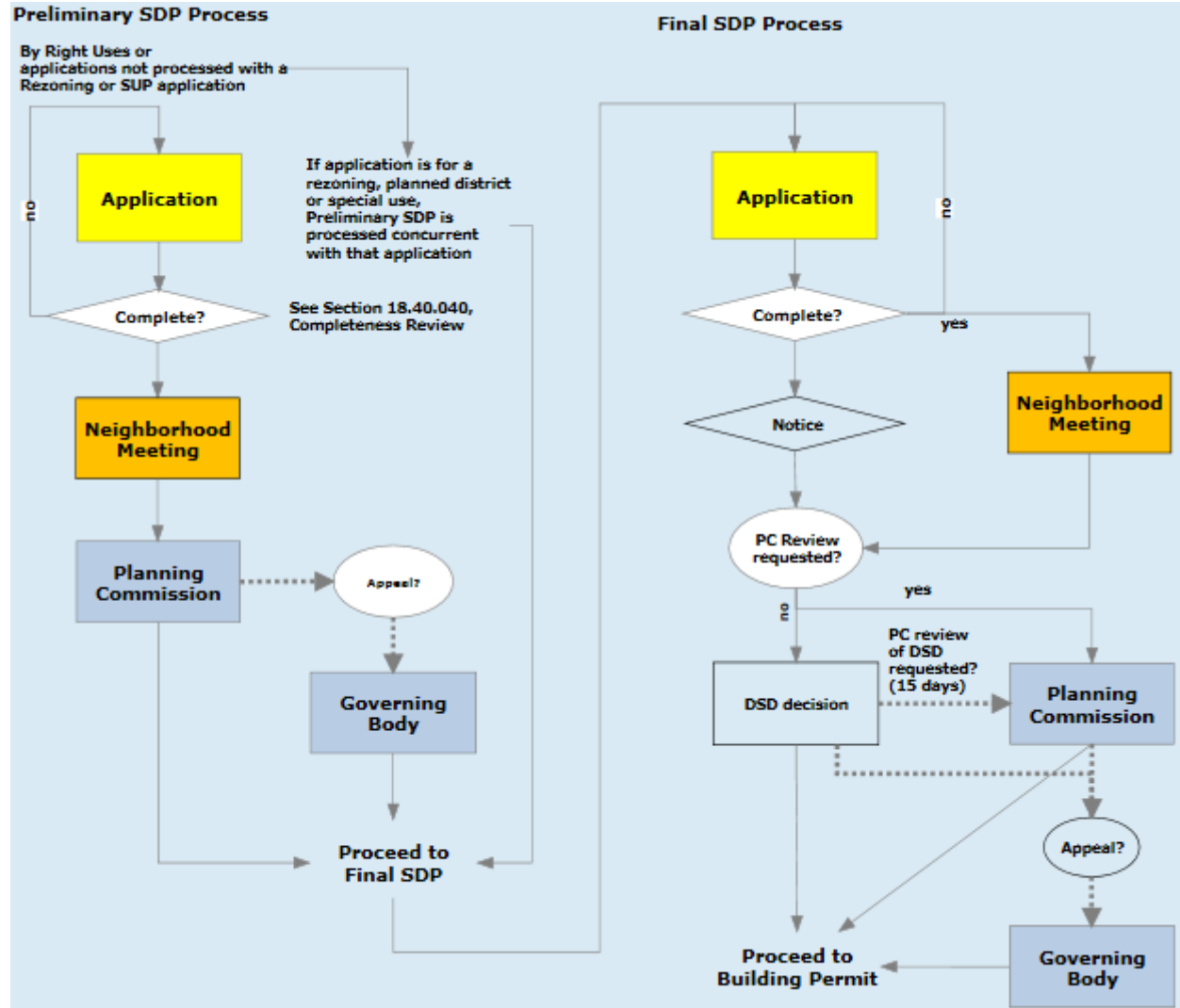
1. Preliminary and final site development plans shall be filed with the Planning Official, and shall include the information required by Chapter [18.94](#).



**Editor's Note:** This diagram referenced "Substantial Change" in Section [18.40.120](#). This terminology has been changed to "Major Change" to match the text of that section.

2. A neighborhood meeting is required for a preliminary and final site development plan (see Section [18.40.030](#)).

## C. Review Process



## D. Decision

### 1. Preliminary Site Development Plan Decision

- a. If the application involves a use that is **permitted by right** in the applicable zoning district, the Planning Commission will approve, conditionally approve, or deny a preliminary site development plan. Notice to surrounding property owners is required (see Section [18.40.050.B](#)). The Planning Commission will render a decision within 30 days, unless the applicant requests additional time in order to revise the application. The applicant may revise the application during this review period without resubmitting the application and paying new filing fees.

**b.** If the application involves a **planned district**, a **rezoning**, or a **special use**, the preliminary site development plan is processed and approved as part of that application. The preliminary site development plan may be revised and resubmitted during the review period for the planned district/conditional rezoning or special use permit application review period and approved as part of the conditions of approval. In that case, the Approving Authority is the agency that approves that rezoning or special use.

## **2. Final Site Development Plan Decision**

### **a. Authority**

A final site development plan is approved by the Planning Official, unless the applicant requests Planning Commission review.

### **b. Planning Official Decisions**

If the Planning Official renders a decision on the application:

- (1)** The Planning Official shall render its determination within thirty (30) days after the applicant submits a complete application (see Section [18.40.040](#)), unless the applicant requests additional time in order to revise the application. The applicant may revise the application during this review period without resubmitting the application and paying new filing fees.
- (2)** If the Planning Official fails to render a timely decision, the applicant or a surrounding property owner may request Planning Commission review (see subsection [D.2.c](#) below).
- (3)** If the applicant or surrounding property owner does not request Planning Commission review, the Planning Official's determination is final.
- (4)** If an administrative review application is without communication from the applicant for more than six (6) months, the applicant will be required to submit a new application and fees for the final site development plan review to continue.

### **c. Planning Commission Review**

- (1)** The Planning Commission reviews the final site plan if the applicant asks the Planning Commission to review the final site plan within fifteen (15) days of the date of the Planning Official's decision.



- (2) The Planning Commission will consider the application without a public hearing.
- (3) The Planning Commission may approve, approve with conditions, or deny the preliminary or final site development plan.
- (4) The Planning Commission shall render its decision within 30 days after the applicant requests a review. The Planning Commission may extend the time for making a decision if requested by the applicant.

#### **E. Approval Criteria**

- 1. The following criteria apply to the approval, conditional approval or denial of a preliminary site development plan:
  - a. The plan complies with all applicable requirements of Chapters [18.15](#), [18.20](#), and [18.30](#), and
  - b. The plan represents an overall development pattern that is consistent with the Comprehensive Plan, the Major Street Map and other adopted planning policies.
- 2. A final site development plan is approved if it is consistent with the preliminary site development plan as approved, including all conditions of approval, and complies with all applicable requirements of this title. A final site development plan shall not modify or expand the approved preliminary site development plan, except as provided in Section [18.40.120](#).

#### **F. Subsequent Applications**

- 1. When an application for preliminary or final site plan is withdrawn by the applicant or denied, the same application for the same property shall not be resubmitted for a period of one (1) year from the date of withdrawal or denial.
- 2. An application for a major modification to the withdrawn or denied application may be submitted at any time.

#### **G. Scope of Approval**

- 1. Approved [preliminary site development plans or](#) final site development plans are valid for two (2) years after ~~final~~-[date of](#) approval.
- 2. If the landowner fails to commence ~~construction the planned development~~ within the time period required in subsection [G.1](#), above, the [final](#) site development plan becomes null and void unless the time period is extended.

3. If the landowner fails to submit and obtain approvals for a final site development plan within the time period required in subsection G.1, above, the preliminary site development plan becomes null and void unless the time period is extended.

~~3~~4. The Approving Authority may extend the time period of a preliminary or final development plan upon written application by the landowner. Unless otherwise required in a condition of approval, the Approving Authority may extend the time period without a public hearing. The Approving Authority shall extend the site development plan for up to six (6) months. After this time period or at the time the original extension is requested, the Approving Authority may extend the site development plan for any length of time for cause.

~~4~~5. The applicant may revise an approved final site development plan as provided in Section 18.40.120.

~~5. Any preliminary plat or preliminary development plan for a single-family subdivision in an existing RP-1 District approved prior to the effective date of this ordinance (June 17, 2014), where no final plat or plan has been approved, shall be considered expired and subject to a new application and the provisions of this ordinance.~~

## **H. Appeals**

The applicant or aggrieved party may appeal the disapproval of a preliminary or final site development plan by the Planning Commission to the Governing Body. The applicant shall file a notice of appeal with the Planning Official within ten (10) days following the decision.

## **I. Recordkeeping**

The Planning Division and the applicant shall maintain copies of the preliminary and final site development plan approvals, and all supporting documentation.

## **J. Abandonment of Final Site Development Plan**

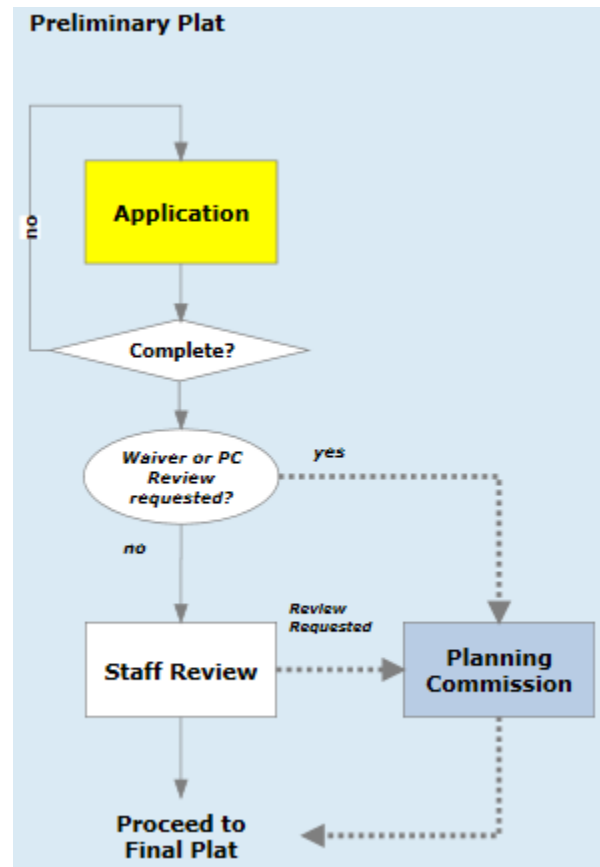
1. If the applicant abandons any part of a site development plan, then the applicant shall notify the City in writing.
2. If any part of a final site development plan is abandoned, no development shall take place on the property until a new final site development plan is approved. (*Ord. 17-52 §§ 22, 41, 2017; Ord. 16-20 § 4, 2016; Ord. 15-16 § 3, 2015*)

### 18.40.150 Preliminary Plat

*Purpose: The preliminary plat process examines the major features and elements of a proposed plat. This process determines whether the plat conforms to this title and the Comprehensive Plan, and any conditions of approval.*

#### A. Applicability

1. The Planning Commission must approve a preliminary plat before a final plat application is filed.
2. A preliminary plat is not considered a "plat" for purposes of KSA [12-752](#). Instead, the preliminary plat is a preapplication process that is designed to ensure that that plat conforms to all applicable requirements of this title. The applicant may request that the City waive the preliminary plat process and proceed directly to the final plat process.



#### B. Initiation

1. An application for preliminary plat approval is filed with the Planning Official. Preapplication is required.
2. An applicant may substitute a preliminary development plan for a preliminary plat if the preliminary development plan contains all information required for preliminary plats as set forth in Chapter [18.94](#).
3. A neighborhood meeting is required (see Section [18.40.030](#))

↔ Cross-Reference: [18.40.020](#) (Preapplication)

#### C. Completeness Review

See Section [18.40.040](#), Completeness Review.

#### **D. Approval Criteria**

The Approving Authority shall approve the preliminary plat if it finds that the following criteria are satisfied:

1. The proposed preliminary plat conforms to the requirements of Chapter [18.30](#), the applicable zoning district regulations and any other applicable provisions of the Municipal Code, subject only to acceptable rule exceptions.
2. The subdivision represents an overall development pattern that is consistent with the Comprehensive Plan, Major Street Map, Access Management Plan, and applicable corridor studies and plans.
3. The plat contains a sound, well-conceived parcel and land subdivision layout which is consistent with good land planning and site engineering design principles.
4. The spacing and design of proposed curb cuts, driveway approaches and intersection locations is consistent with the Access Management Plan, good traffic engineering design and public safety considerations.
5. The plat conforms to any existing, unexpired and valid conditions of rezoning, special use permit or site development plan approval.
6. All submission requirements are satisfied.

#### **E. Subsequent Applications**

1. When a preliminary plat application is withdrawn or denied, the same application for the same property shall not be resubmitted for a period of one (1) year from the date of withdrawal or denial.
2. A new plat application showing major modifications and/or revisions to the withdrawn or denied plat application may be submitted at any time.

#### **F. Scope of Approval**

1. Approval of a preliminary plat does not constitute acceptance of the subdivision, but authorizes preparation of the final plat. No improvements shall take place in the subdivision prior to approval and recording of the final plat and submittal and approval of street, sanitary sewer, water line and storm sewer construction plans by the City Engineer.

2. Preliminary plat approval is effective for a period of two (2) years. Where a final plat for the subdivision is not submitted for approval within the two (2) year time period, the preliminary plat becomes null and void and the developer shall resubmit a new preliminary plat for approval subject to the then effective regulations.

3. When a preliminary plat containing a gross land area in excess of forty (40) acres is submitted for approval, the applicant may indicate the **anticipated development or phasing pattern** for final platting. The applicant may receive an extension of the one (1) year time limit for submission of the final plat if each phase is constructed in accordance with the original phasing plan and subsequent final plats comply with all applicable regulations at the time of final platting.

~~4. Any preliminary plat or preliminary development plan for a single-family subdivision in an existing RP-1 District approved prior to the effective date of this ordinance (June 17, 2014), where no final plat or plan has been approved, shall be considered expired and subject to a new application and the provisions of this ordinance.~~

#### G. Recordkeeping

A preliminary plat application is not recorded. The Planning Official will maintain a record of approved preliminary plats. The applicant must maintain a copy of the approved preliminary plat, including any attachments. (*Ord. 17-52 §§ 25, 41, 2017; Ord. 16-20 § 4, 2016; Ord. 02-54 § 2, 2002*)

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## **18.40.110 Site Development Plans**

*Purpose: A site development plan is a process that allows City staff and the Planning Commission to review significant developments and uses to ensure that they comply with the zoning and development standards in this title, have appropriate design and infrastructure, and comply with any conditions of rezoning, preliminary subdivision plat, or special use permit approval.*

### **A. Applicability**

**1. A preliminary site development plan** is required for:

**a.** Any application to rezone property:

**(1)** to a district that allows nonresidential uses or multifamily or two-family dwellings, or

**(2)** to an "A," "R-1" or "R-2" district where the applicant is proposing a nonresidential development

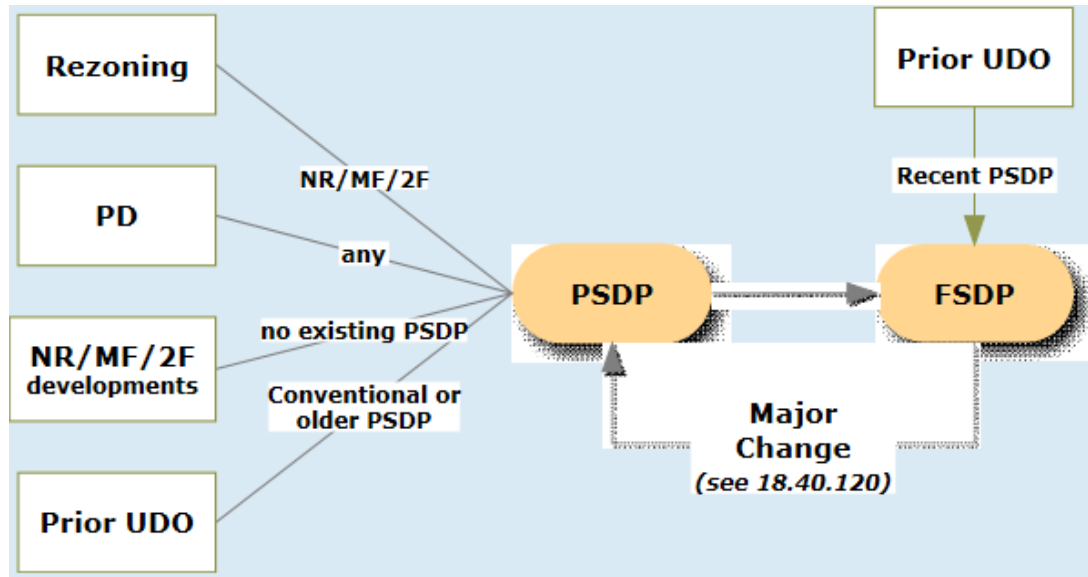
**b.** All nonresidential uses, or developments with multifamily or two-family dwellings unless a preliminary site development plan for the proposed development was already approved as part of the existing zoning district, and

**c.** Any application for approval of a planned development district.

**2.** If a property is subject to an approved and unexpired preliminary site development plan, a **final site development plan** is required before a building permit application is filed.

## B. Initiation

1. Preliminary and final site development plans shall be filed with the Planning Official, and shall include the information required by Chapter [18.94](#).

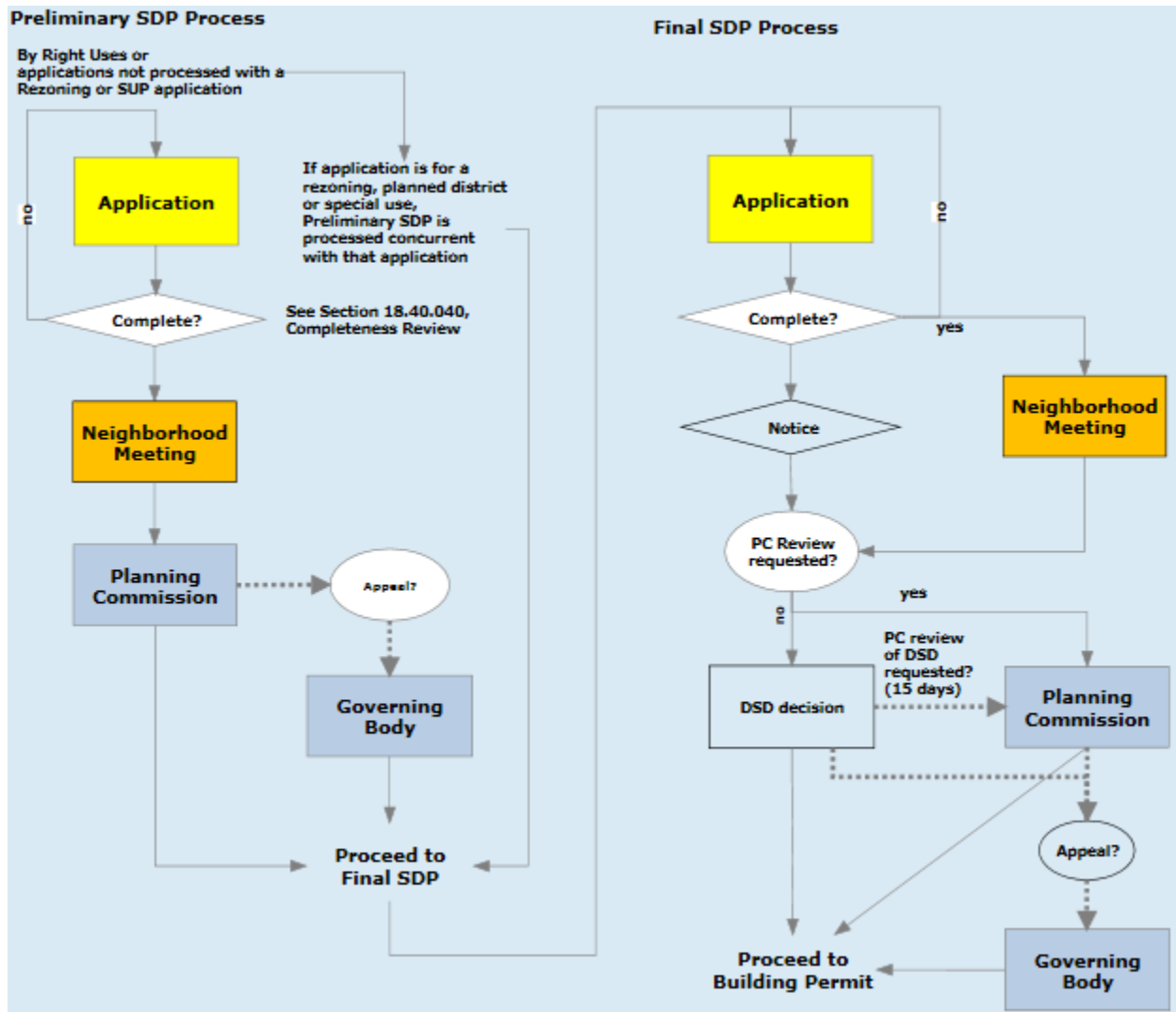


**Editor's Note:** This diagram referenced "Substantial Change" in Section [18.40.120](#). This terminology has been changed to "Major Change" to match the text of that section.

2. A neighborhood meeting is required for a preliminary and final site development plan (see Section [18.40.030](#)).



## C. Review Process



## D. Decision

### 1. Preliminary Site Development Plan Decision

a. If the application involves a use that is **permitted by right** in the applicable zoning district, the Planning Commission will approve, conditionally approve, or deny a preliminary site development plan. ~~Notice to surrounding property owners is required (see Section 18.40.050.B).~~ The Planning Commission will render a decision within 30 days, unless the applicant requests additional time in order to revise the application. The applicant may revise the application during this review period without resubmitting the application and paying new filing fees.

b. If the application involves a **planned district**, a **rezoning**, or a **special use**, the preliminary site development plan is processed and approved as part of that application. Notice to surrounding property owners is required (see Section 18.40.050.B). The preliminary site development plan may be revised and resubmitted during the review period for the planned district/conditional rezoning or special use permit application review period and approved as part of the conditions of approval. In that case, the Approving Authority is the agency that approves that rezoning or special use.

## **2. Final Site Development Plan Decision**

### **a. Authority**

A final site development plan is approved by the Planning Official, unless the applicant requests Planning Commission review.

### **b. Planning Official Decisions**

If the Planning Official renders a decision on the application:

- (1) The Planning Official shall render its determination within thirty (30) days after the applicant submits a complete application (see Section [18.40.040](#)), unless the applicant requests additional time in order to revise the application. The applicant may revise the application during this review period without resubmitting the application and paying new filing fees.
- (2) If the Planning Official fails to render a timely decision, the applicant or a surrounding property owner may request Planning Commission review (see subsection [D.2.c](#) below).
- (3) If the applicant or surrounding property owner does not request Planning Commission review, the Planning Official's determination is final.
- (4) If an administrative review application is without communication from the applicant for more than six (6) months, the applicant will be required to submit a new application and feeds for the final site development plan review to continue.

### **c. Planning Commission Review**

- (1) The Planning Commission reviews the final site plan if the applicant asks the Planning Commission to review the final site plan within fifteen (15) days of the date of the Planning Official's decision.
- (2) The Planning Commission will consider the application without a public hearing.
- (3) The Planning Commission may approve, approve with conditions, or deny the preliminary or final site development plan.
- (4) The Planning Commission shall render its decision within 30 days after the applicant requests a review. The Planning Commission may extend the time for making a decision if requested by the applicant.

#### **E. Approval Criteria**

1. The following criteria apply to the approval, conditional approval or denial of a preliminary site development plan:
  - a. The plan complies with all applicable requirements of Chapters [18.15](#), [18.20](#), and [18.30](#), and
  - b. The plan represents an overall development pattern that is consistent with the Comprehensive Plan, the Major Street Map and other adopted planning policies.
2. A final site development plan is approved if it is consistent with the preliminary site development plan as approved, including all conditions of approval, and complies with all applicable requirements of this title. A final site development plan shall not modify or expand the approved preliminary site development plan, except as provided in Section [18.40.120](#).

#### **F. Subsequent Applications**

1. When an application for preliminary or final site plan is withdrawn by the applicant or denied, the same application for the same property shall not be resubmitted for a period of one (1) year from the date of withdrawal or denial.
2. An application for a major modification to the withdrawn or denied application may be submitted at any time.

#### **G. Scope of Approval**

1. Approved [preliminary site development plans or](#) final site development plans are valid for two (2) years after ~~final~~-[date of](#) approval.

2. When a preliminary site development plan containing multiple lots is submitted for approval; the applicant will indicate the anticipated development or phasing pattern for final development. The phasing pattern for development shall include:

- a) Illustrative maps for each proposed phase which clearly mark in heavy lines the boundaries of the subject phase, label the phase alphabetically (to avoid confusion with lot numbers), and identify approximate area, number of lots in each phase, total area and buildable area per phase. All phasing maps shall be drawn at the same scale. The final phasing plan map should be drawn at the same scale as the preliminary site plan map.
- b) A narrative description or table that describes each phase and its associated improvements. In addition, the narrative or table shall demonstrate that each phase would comprise a "stand-alone" development which, should no subsequent phases be constructed, would meet or exceed the standards of this ordinance.

3. If the landowner fails to submit and obtain approvals for a final site development plan within the time period required in subsection G.1, above, the preliminary site development plan becomes null and void unless the time period is extended.

~~24.~~ If the landowner fails to commence construction ~~the planned development~~ within the time period required in subsection G.1, above, the final site development plan becomes null and void unless the time period is extended.

~~35.~~ The ~~Approving Authority~~ Chief Planning and Development Officer may extend the time period of a preliminary or final development plan upon written application by the landowner. Unless otherwise required in a condition of approval, the ~~Approving Authority~~ The Chief Planning and Development Officer may extend the time period without a public hearing. The ~~Approving Authority~~ Chief Planning and Development Officer shall extend the site development plan for up to six (6) months. After this time period or at the time the original extension is requested, the Approving Authority may extend the site development plan for any length of time for cause.

~~46.~~ The applicant may revise an approved final site development plan as provided in Section 18.40.120.

~~5. Any preliminary plat or preliminary development plan for a single-family subdivision in an existing RP-1 District approved prior to the effective date of this ordinance (June 17, 2014), where no final plat or plan has been approved, shall be considered expired and subject to a new application and the provisions of this ordinance.~~

## **H. Appeals**

The applicant or aggrieved party may appeal the disapproval of a preliminary or final site development plan by the Planning Commission to the Governing Body. The applicant shall file a notice of appeal with the Planning Official within ten (10) days following the decision.

## **I. Recordkeeping**

The Planning Division and the applicant shall maintain copies of the preliminary and final site development plan approvals, and all supporting documentation.

## **J. Abandonment of Final Site Development Plan**

- 1.** If the applicant abandons any part of a site development plan, then the applicant shall notify the City in writing.
- 2.** If any part of a final site development plan is abandoned, no development shall take place on the property until a new final site development plan is approved. (*Ord. 17-52 §§ 22, 41, 2017; Ord. 16-20 § 4, 2016; Ord. 15-16 § 3, 2015*)

### 18.40.150 Preliminary Plat

*Purpose: The preliminary plat process examines the major features and elements of a proposed plat. This process determines whether the plat conforms to this title and the Comprehensive Plan, and any conditions of approval.*

#### A. Applicability

1. The Planning Commission must approve a preliminary plat before a final plat application is filed.
2. A preliminary plat is not considered a "plat" for purposes of KSA [12-752](#). Instead, the preliminary plat is a preapplication process that is designed to ensure that that plat conforms to all applicable requirements of this title. The applicant may request that the City waive the preliminary plat process and proceed directly to the final plat process.

#### B. Initiation

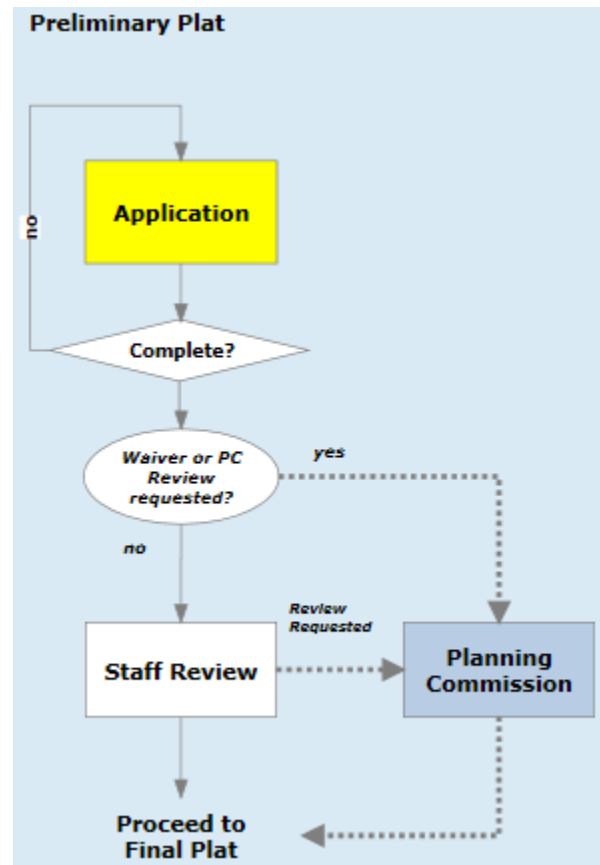
1. An application for preliminary plat approval is filed with the Planning Official. Preapplication is required.
2. An applicant may substitute a preliminary development plan for a preliminary plat if the preliminary development plan contains all information required for preliminary plats as set forth in Chapter [18.94](#).
3. A neighborhood meeting is required (see Section [18.40.030](#))

⇔ Cross-Reference: [18.40.020](#) (Preapplication)

#### C. Completeness Review

See Section [18.40.040](#), Completeness Review.

#### D. Approval Criteria



The Approving Authority shall approve the preliminary plat if it finds that the following criteria are satisfied:

1. The proposed preliminary plat conforms to the requirements of Chapter [18.30](#), the applicable zoning district regulations and any other applicable provisions of the Municipal Code, subject only to acceptable rule exceptions.
2. The subdivision represents an overall development pattern that is consistent with the Comprehensive Plan, Major Street Map, Access Management Plan, and applicable corridor studies and plans.
3. The plat contains a sound, well-conceived parcel and land subdivision layout which is consistent with good land planning and site engineering design principles.
4. The spacing and design of proposed curb cuts, driveway approaches and intersection locations is consistent with the Access Management Plan, good traffic engineering design and public safety considerations.
5. The plat conforms to any existing, unexpired and valid conditions of rezoning, special use permit or site development plan approval.
6. All submission requirements are satisfied.

#### **E. Subsequent Applications**

1. When a preliminary plat application is withdrawn or denied, the same application for the same property shall not be resubmitted for a period of one (1) year from the date of withdrawal or denial.
2. A new plat application showing major modifications and/or revisions to the withdrawn or denied plat application may be submitted at any time.

#### **F. Scope of Approval**

1. Approval of a preliminary plat does not constitute acceptance of the subdivision, but authorizes preparation of the final plat. No improvements shall take place in the subdivision prior to approval and recording of the final plat and submittal and approval of street, sanitary sewer, water line and storm sewer construction plans by the City Engineer.

2. Preliminary plat approval is effective for a period of two (2) years. Where a final plat for the subdivision is not submitted for approval within the two (2) year time period, the preliminary plat becomes null and void and the developer shall resubmit a new preliminary plat for approval subject to the then effective regulations.

3. Development rights shall vest upon the requirement set forth in Section 18.60.070 in accordance with provisions of KSA 12-764.

~~3~~4. When a preliminary plat containing a gross land area in excess of forty (40) acres is submitted for approval, the applicant will~~may~~ indicate the **anticipated development or phasing pattern** for final platting. The phasing pattern for development shall include the following:

c) Illustrative maps for each proposed phase which clearly mark in heavy lines the boundaries of the subject phase, label the phase alphabetically (to avoid confusion with lot numbers), and identify approximate area, number of lots in each phase, total area and buildable area per phase. All phasing maps shall be drawn at the same scale. The final phasing plan map should be drawn at the same scale as the preliminary plat map.

d) A narrative description or table that describes each phase and its associated improvements. In addition, the narrative or table shall demonstrate that each phase would comprise a "stand-alone" development which, should no subsequent phases be constructed, would meet or exceed the standards of this ordinance.

The applicant may receive an extension of the one (1) year time limit for submission of the final plat if each phase is constructed in accordance with the original phasing plan and subsequent final plats comply with all applicable regulations at the time of final platting.

~~4. Any preliminary plat or preliminary development plan for a single-family subdivision in an existing RP-1 District approved prior to the effective date of this ordinance (June 17, 2014), where no final plat or plan has been approved, shall be considered expired and subject to a new application and the provisions of this ordinance.~~

## G. Recordkeeping

A preliminary plat application is not recorded. The Planning Official will maintain a record of approved preliminary plats. The applicant must maintain a copy of the approved preliminary plat, including any attachments. (*Ord. 17-52 §§ 25, 41, 2017; Ord. 16-20 § 4, 2016; Ord. 02-54 § 2, 2002*)

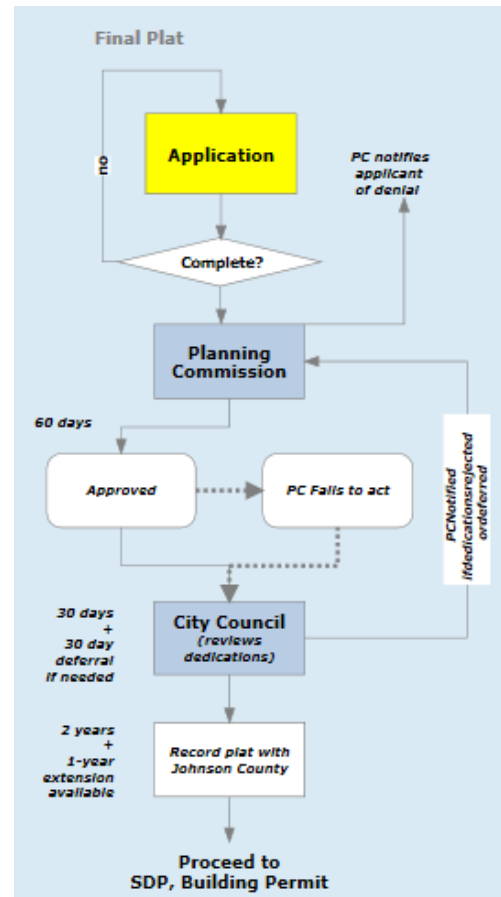


## 18.40.160 Final Plat

*Purpose: This section establishes the process to approve formal plats for recording with the Johnson County register of deeds.*

### A. Applicability

1. This section applies to any formal plat application. Final plat applications are filed after the preliminary plat is approved.
2. The applicant may file a final plat without first seeking preliminary plat approval. However, in that case the applicant must strictly observe all requirements of this title and may not request a modification of any standards established in Chapter [18.30](#). In addition, the Planning Commission will deny the plat if it does not conform to all applicable requirements within the statutory period for approving a plat.



### B. Initiation

An application for final plat approval is filed with the Planning Official.

### C. Completeness Review

See § [18.40.040](#) Completeness Review.

### D. Decision

1. The Planning Commission will consider the final plat without a public hearing, unless the applicant requests a public hearing.
2. The Planning Commission may approve, approve with conditions, or deny the final plat.

3. The Planning Commission shall render its decision within 60 days after its first meeting after the plat is submitted to the Planning Official. If the Planning Commission fails to timely render its decision, the plat is deemed approved.
4. If the final plat is approved or the Planning Commission fails to render a timely decision, the Planning Official shall issue a certificate upon demand.
5. If the Planning Commission finds that the plat does not conform to subsection E below, it shall notify the owner or owners of that fact. The notice shall be in writing and shall specify in detail the reasons the plat does not conform to subsection E.
6. If the plat conforms to subsection E, the Planning Commission chair shall endorse on the plat the fact that the plat has been submitted to and approved by the Planning Commission. The secretary of the Planning Commission shall attest the chair's signature.
7. After the final plat is approved, the applicant shall submit it to the Governing Body for review if land is proposed to be dedicated for public purposes. The Governing Body shall approve or disapprove the dedication of land for public purposes within thirty (30) days after the first meeting of the Governing Body following the date of the submission of the plat to the City Clerk. The Governing Body may defer action for an additional thirty (30) days for the purpose of allowing for modifications to comply with the requirements established by the Governing Body. No additional filing fees shall be assessed during that period. The Governing Body shall advise the Planning Commission of its reasons for any deferral or disapproval of any dedication. Acceptance of lands and easements dedicated for public purposes that are approved by the Governing Body shall be endorsed on the plat by the Mayor. The City Clerk shall attest the Mayor's signature. (*Ord. 02-54 § 2, 2002*)
8. No plat shall be filed with the Register of Deeds office unless it bears the endorsement that the land dedicated to public purposes is approved by the Governing Body.
9. All conditions to approval of a subdivision by the Planning Commission or the acceptance of dedications of land by the Governing Body, and all waivers granted by the Planning Commission, shall be clearly stated on the final plat prior to its recording. (*Ord. 02-54 § 2, 2002*)

#### **E. Approval Criteria**

1. The Planning Commission shall approve a final plat if it determines that:
  - a. The final plat substantially conforms to the approved preliminary plat and any applicable conditions of approval.

b. The plat conforms to all applicable requirements of the Municipal Code [and Unified Development Ordinance](#), subject only to approved waivers.

2. If the applicant chooses not to submit a preliminary plat, the final plat is subject to the criteria for approving a preliminary plat and to subsection 1, above.

#### **F. Subsequent Applications**

1. A new plat application showing major modifications and/or revisions to the withdrawn or denied plat application may be submitted at any time.

#### **G. Scope of Approval**

1. After the Governing Body endorses its acceptance of lands and easements dedicated for public purposes, the final plat shall be recorded with the Register of Deeds of Johnson County as provided by law. No plat shall be recorded with the Register of Deeds prior to its endorsement by the Mayor.

2. After the applicant provides public improvements assurances and records the final plat, the applicant may construct the improvements shown on the plat and proceed to the building permit approval process.

#### **H. Recordkeeping**

1. Final plats shall be recorded with the Register of Deeds office within two (2) years following Governing Body approval of land dedicated to public purposes. Final plats which are not timely recorded are null and void.

2. No plat shall be recorded before the applicant submits satisfactory assurances for construction of public improvements.

#### **I. Final Plat Extensions**

1. Requests for final plat extension shall be made in writing to the Planning Official prior to the two (2) year expiration date provided above. Final plat extensions may only be granted by one of the following:

a. The Planning Official may administratively grant a one (1) year extension if no changes are made to any City ordinance, regulation or approved plans that would require a change in the final plat. The applicant may appeal the Planning Official's denial of an extension to the Planning Commission.

- b.** The Planning Commission, upon appeal from the Planning Official's decision to deny a final plat extension, may grant the one (1) year extension upon finding that the extension will not impact the City's ability to administer current ordinances or regulations.
- 2.** Final plat extensions are subject to all current excise taxes and/or development fees at the time of the extension approval. (*Ord. 15-16 §3, 2015*)

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### **18.40.110 Site Development Plans**

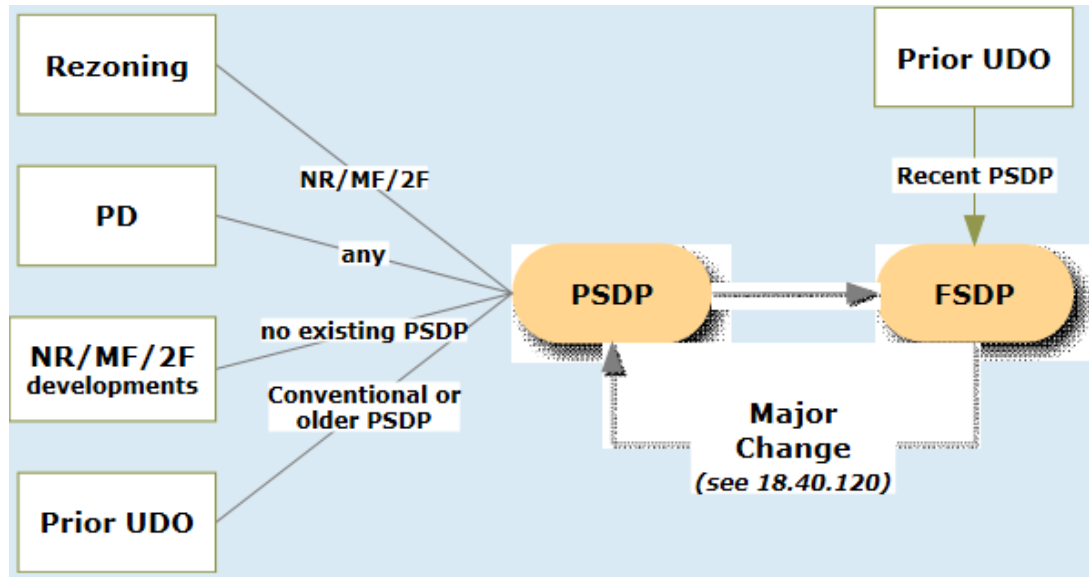
*Purpose: A site development plan is a process that allows City staff and the Planning Commission to review significant developments and uses to ensure that they comply with the zoning and development standards in this title, have appropriate design and infrastructure, and comply with any conditions of rezoning, preliminary subdivision plat, or special use permit approval.*

#### **A. Applicability**

- 1. A preliminary site development plan** is required for:
  - a.** Any application to rezone property:
    - (1)** to a district that allows nonresidential uses or multifamily or two-family dwellings, or
    - (2)** to an "A," "R-1" or "R-2" district where the applicant is proposing a nonresidential development
  - b.** All nonresidential uses, or developments with multifamily or two-family dwellings unless a preliminary site development plan for the proposed development was already approved as part of the existing zoning district, and
  - c.** Any application for approval of a planned development district.
- 2.** If a property is subject to an approved and unexpired preliminary site development plan, a **final site development plan** is required before a building permit application is filed.

## B. Initiation

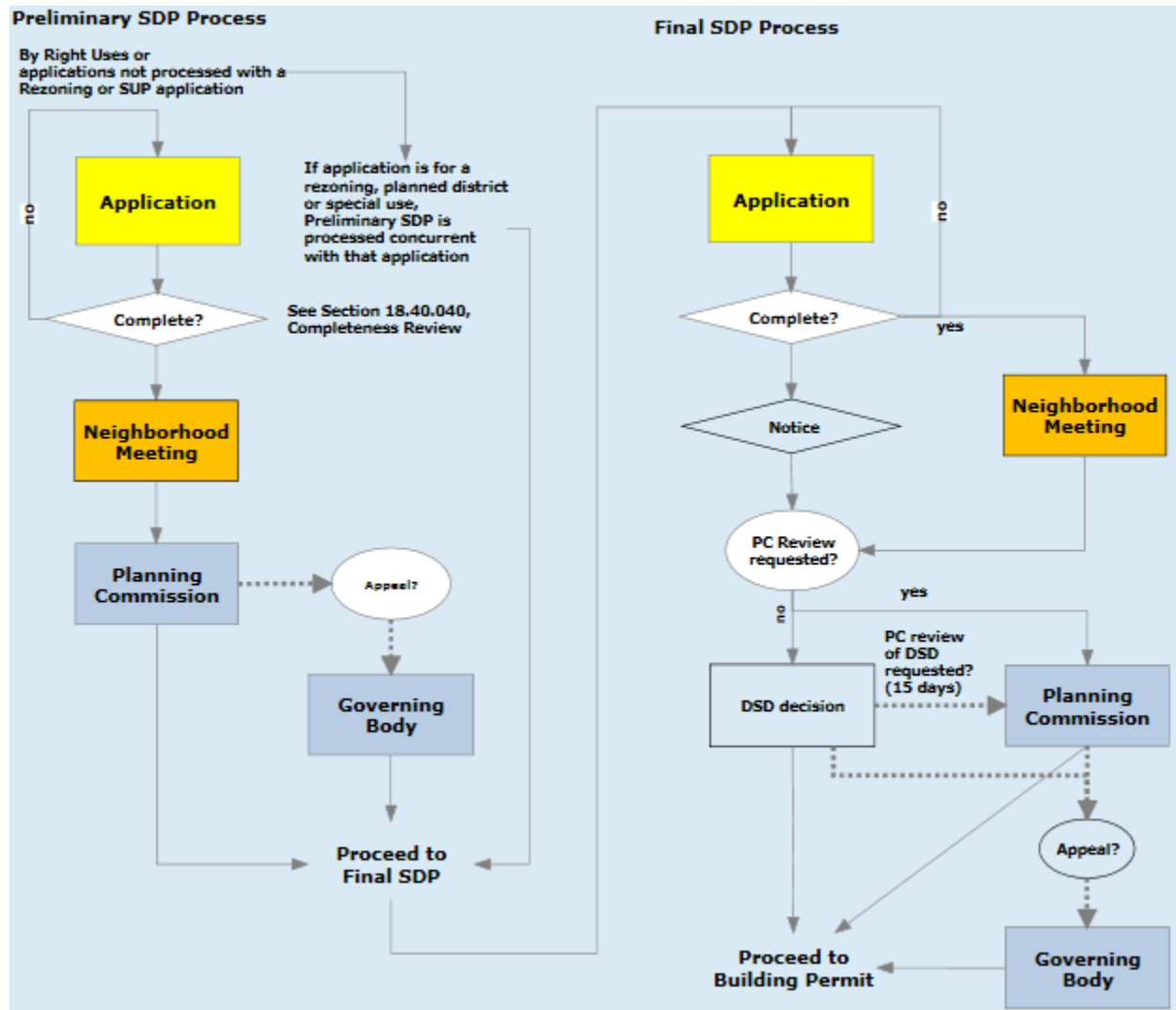
1. Preliminary and final site development plans shall be filed with the Planning Official, and shall include the information required by Chapter [18.94](#).



**Editor's Note:** This diagram referenced "Substantial Change" in Section [18.40.120](#). This terminology has been changed to "Major Change" to match the text of that section.

2. A neighborhood meeting is required for a preliminary and final site development plan (see Section [18.40.030](#)).

## C. Review Process



## D. Decision

### 1. Preliminary Site Development Plan Decision

- a. If the application involves a use that is **permitted by right** in the applicable zoning district, the Planning Commission will approve, conditionally approve, or deny a preliminary site development plan. ~~Notice to surrounding property owners is required (see Section 18.40.050.B).~~ The Planning Commission will render a decision within 30 days, unless the applicant requests additional time in order to revise the application. The applicant may revise the application during this review period without resubmitting the application and paying new filing fees.



b. If the application involves a **planned district**, a **rezoning**, or a **special use**, the preliminary site development plan is processed and approved as part of that application. [Notice to surrounding property owners is required \(see Section 18.40.050.B\)](#). The preliminary site development plan may be revised and resubmitted during the review period for the planned district/conditional rezoning or special use permit application review period and approved as part of the conditions of approval. In that case, the Approving Authority is the agency that approves that rezoning or special use.

## **2. Final Site Development Plan Decision**

### **a. Authority**

A final site development plan is approved by the Planning Official, unless the applicant requests Planning Commission review.

### **b. Planning Official Decisions**

If the Planning Official renders a decision on the application:

- (1) The Planning Official shall render its determination within thirty (30) days after the applicant submits a complete application (see Section [18.40.040](#)), unless the applicant requests additional time in order to revise the application. The applicant may revise the application during this review period without resubmitting the application and paying new filing fees.
- (2) If the Planning Official fails to render a timely decision, the applicant or a surrounding property owner may request Planning Commission review (see subsection [D.2.c](#) below).
- (3) If the applicant or surrounding property owner does not request Planning Commission review, the Planning Official's determination is final.
- (4) If an administrative review application is without communication from the applicant for more than six (6) months, the applicant will be required to submit a new application and fees for the final site development plan review to continue.

**c. Planning Commission Review**

- (1) The Planning Commission reviews the final site plan if the applicant asks the Planning Commission to review the final site plan within fifteen (15) days of the date of the Planning Official's decision.
- (2) The Planning Commission will consider the application without a public hearing.
- (3) The Planning Commission may approve, approve with conditions, or deny the preliminary or final site development plan.
- (4) The Planning Commission shall render its decision within 30 days after the applicant requests a review. The Planning Commission may extend the time for making a decision if requested by the applicant.

**E. Approval Criteria**

1. The following criteria apply to the approval, conditional approval or denial of a preliminary site development plan:
  - a. The plan complies with all applicable requirements of Chapters [18.15](#), [18.20](#), and [18.30](#), and
  - b. The plan represents an overall development pattern that is consistent with the Comprehensive Plan, the Major Street Map and other adopted planning policies.
2. A final site development plan is approved if it is consistent with the preliminary site development plan as approved, including all conditions of approval, and complies with all applicable requirements of this title. A final site development plan shall not modify or expand the approved preliminary site development plan, except as provided in Section [18.40.120](#).

**F. Subsequent Applications**

1. When an application for preliminary or final site plan is withdrawn by the applicant or denied, the same application for the same property shall not be resubmitted for a period of one (1) year from the date of withdrawal or denial.
2. An application for a major modification to the withdrawn or denied application may be submitted at any time.

## G. Scope of Approval

1. Approved preliminary site development plans or final site development plans are valid for two (2) years after ~~final~~ date of approval.

2. When a preliminary site development plan containing multiple lots is submitted for approval; the applicant will indicate the anticipated development or phasing pattern for final development. The phasing pattern for development shall include:

- a) Illustrative maps for each proposed phase which clearly mark in heavy lines the boundaries of the subject phase, label the phase alphabetically (to avoid confusion with lot numbers), and identify approximate area, number of lots in each phase, total area and buildable area per phase. All phasing maps shall be drawn at the same scale. The final phasing plan map should be drawn at the same scale as the preliminary site plan map.
- b) A narrative description or table that describes each phase and its associated improvements. In addition, the narrative or table shall demonstrate that each phase would comprise a "stand-alone" development which, should no subsequent phases be constructed, would meet or exceed the standards of this ordinance.

3. If the applicant fails to submit and obtain approvals for a final site development plan within the time period required in subsection G.1, above, the preliminary site development plan becomes null and void unless the time period is extended.

~~24.~~ If the ~~landowner~~ applicant fails to commence construction by means of an issued building permit ~~the planned development~~ within the time period required in subsection G.1, above, the final site development plan becomes null and void unless the time period is extended.

~~35.~~ The ~~Approving Authority~~ Chief Planning and Development Officer may extend the time period of a preliminary or final development plan upon written ~~application request~~ by the ~~landowner~~ applicant. Unless otherwise required in a condition of approval, the ~~Approving Authority~~ Chief Planning and Development Officer may extend the time period administratively without a public hearing. The ~~Approving Authority~~ Chief Planning and Development Officer shall extend the time period of either site development plan for up to ~~six (6)~~ twelve (12) months. ~~After this time period or at the time the original extension is requested,~~ Upon written request by the applicant, the ~~Approving Authority~~ Governing Body may extend the preliminary or final site development plan for any length of time for cause.

~~46.~~ The applicant may revise an approved final site development plan as provided in Section [18.40.120](#).

~~5. Any preliminary plat or preliminary development plan for a single-family subdivision in an existing RP-1 District approved prior to the effective date of this ordinance (June 17, 2014), where no final plat or plan has been approved, shall be considered expired and subject to a new application and the provisions of this ordinance.~~

## **H. Appeals**

The applicant or aggrieved party may appeal the disapproval of a preliminary or final site development plan by the Planning Commission to the Governing Body. The applicant shall file a notice of appeal with the Planning Official within ten (10) days following the decision.

## **I. Recordkeeping**

The Planning Division and the applicant shall maintain copies of the preliminary and final site development plan approvals, and all supporting documentation.

## **J. Abandonment of Final Site Development Plan**

1. If the applicant abandons any part of a site development plan, then the applicant shall notify the City in writing.
2. If any part of a final site development plan is abandoned, no development shall take place on the property until a new final site development plan is approved. (*Ord. 17-52 §§ 22, 41, 2017; Ord. 16-20 § 4, 2016; Ord. 15-16 § 3, 2015*)

### 18.40.150 Preliminary Plat

*Purpose: The preliminary plat process examines the major features and elements of a proposed plat. This process determines whether the plat conforms to this title and the Comprehensive Plan, and any conditions of approval.*

#### A. Applicability

1. The Planning Commission must approve a preliminary plat before a final plat application is filed.
2. A preliminary plat is not considered a "plat" for purposes of KSA [12-752](#). Instead, the preliminary plat is a preapplication process that is designed to ensure that that plat conforms to all applicable requirements of this title. The applicant may request that the City waive the preliminary plat process and proceed directly to the final plat process.

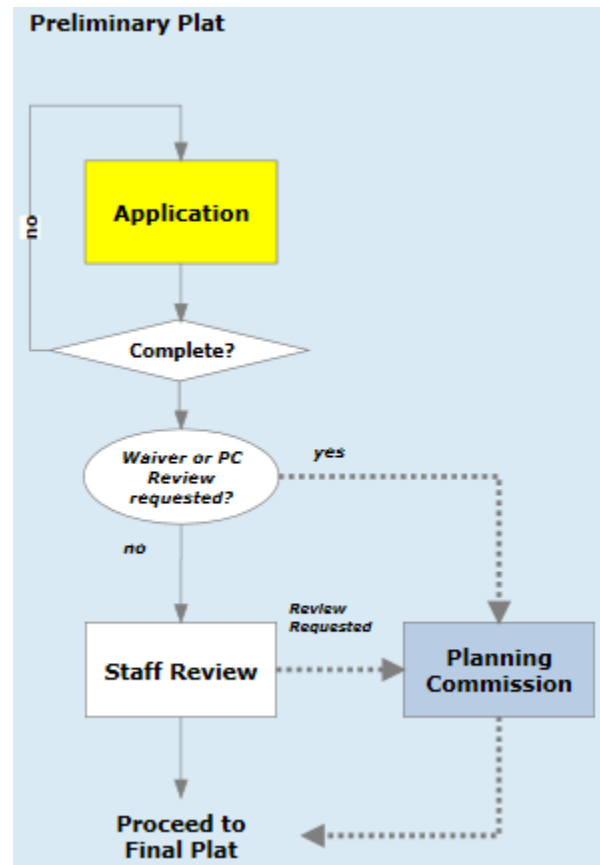
#### B. Initiation

1. An application for preliminary plat approval is filed with the Planning Official. Preapplication is required.
2. An applicant may substitute a preliminary development plan for a preliminary plat if the preliminary development plan contains all information required for preliminary plats as set forth in Chapter [18.94](#).
3. A neighborhood meeting is required (see Section [18.40.030](#))

⇒ Cross-Reference: [18.40.020](#) (Preapplication)

#### C. Completeness Review

See Section [18.40.040](#), Completeness Review.



#### **D. Approval Criteria**

The Approving Authority shall approve the preliminary plat if it finds that the following criteria are satisfied:

1. The proposed preliminary plat conforms to the requirements of Chapter [18.30](#), the applicable zoning district regulations and any other applicable provisions of the Municipal Code, subject only to acceptable rule exceptions.
2. The subdivision represents an overall development pattern that is consistent with the Comprehensive Plan, Major Street Map, Access Management Plan, and applicable corridor studies and plans.
3. The plat contains a sound, well-conceived parcel and land subdivision layout which is consistent with good land planning and site engineering design principles.
4. The spacing and design of proposed curb cuts, driveway approaches and intersection locations is consistent with the Access Management Plan, good traffic engineering design and public safety considerations.
5. The plat conforms to any existing, unexpired and valid conditions of rezoning, special use permit or site development plan approval.
6. All submission requirements are satisfied.

#### **E. Subsequent Applications**

1. When a preliminary plat application is withdrawn or denied, the same application for the same property shall not be resubmitted for a period of one (1) year from the date of withdrawal or denial.
2. A new plat application showing major modifications and/or revisions to the withdrawn or denied plat application may be submitted at any time.

#### **F. Scope of Approval**

1. Approval of a preliminary plat does not constitute acceptance of the subdivision, but authorizes preparation of the final plat. No improvements shall take place in the subdivision prior to approval and recording of the final plat and submittal and approval of street, sanitary sewer, water line and storm sewer construction plans by the City Engineer.

2. Preliminary plat approval is effective for a period of two (2) years. Where a final plat for the subdivision is not submitted for approval within the two (2) year time period, the preliminary plat becomes null and void and the developer shall resubmit a new preliminary plat for approval subject to the then effective regulations. The Chief Planning and Development Officer may, upon written request by the applicant, administratively grant a one (1) year time extension.  
Consideration for a time extension shall be based upon, but not limited to:

- a) the developer's ability to adhere to any changes in the Olathe Municipal Code or other applicable regulations, that would impact the proposed development; or
- b) if the developer demonstrates substantial progress towards the design and engineering requirements necessary to submit a final plat.

3. When a preliminary plat containing a gross land area in excess of forty (40) acres is submitted for approval, the applicant will ~~may~~ indicate the **anticipated development or phasing pattern** for final platting. The applicant may receive an extension of the one (1) year time limit for submission of the final plat if each phase is constructed in accordance with the original phasing plan and subsequent final plats comply with all applicable regulations at the time of final platting. The phasing pattern for development shall include the following:

- a) Illustrative maps for each proposed phase which clearly mark in heavy lines the boundaries of the subject phase, label the phase alphabetically (to avoid confusion with lot numbers), and identify approximate area, number of lots in each phase, total area and buildable area per phase. All phasing maps shall be drawn at the same scale. The final phasing plan map should be drawn at the same scale as the preliminary plat map.
- b) A narrative description or table that describes each phase and its associated improvements. In addition, the narrative or table shall demonstrate that each phase would comprise a "stand-alone" development which, should no subsequent phases be constructed, would meet or exceed the standards of this ordinance.

~~4. Any preliminary plat or preliminary development plan for a single family subdivision in an existing RP-1 District approved prior to the effective date of this ordinance (June 17, 2014), where no final plat or plan has been approved, shall be considered expired and subject to a new application and the provisions of this ordinance.~~

### **G. Recordkeeping**

A preliminary plat application is not recorded. The Planning Official will maintain a record of approved preliminary plats. The applicant must maintain a copy of the approved preliminary plat, including any attachments. (*Ord. 17-52 §§ 25, 41, 2017; Ord. 16-20 § 4, 2016; Ord. 02-54 § 2, 2002*)

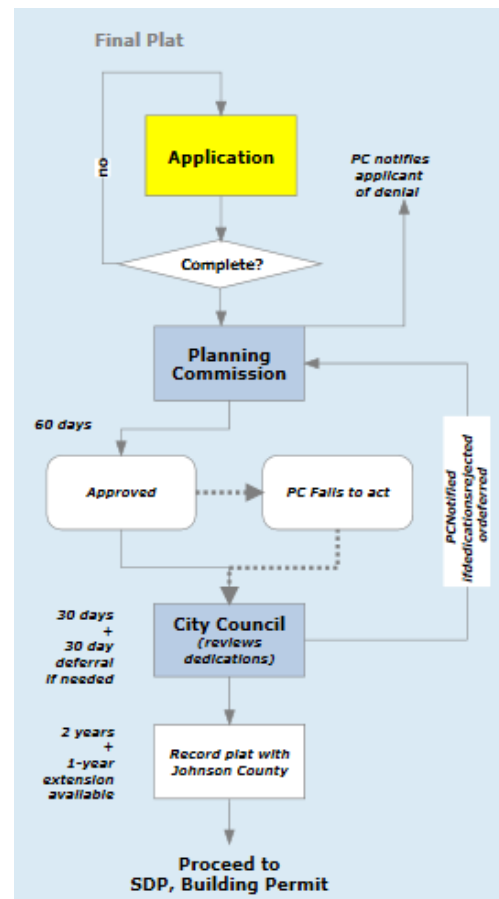


## 18.40.160 Final Plat

*Purpose: This section establishes the process to approve formal plats for recording with the Johnson County register of deeds.*

### A. Applicability

1. This section applies to any formal plat application. Final plat applications are filed after the preliminary plat is approved.
2. The applicant may file a final plat without first seeking preliminary plat approval. However, in that case the applicant must strictly observe all requirements of this title and may not request a modification of any standards established in Chapter [18.30](#). In addition, the Planning Commission will deny the plat if it does not conform to all applicable requirements within the statutory period for approving a plat.



### B. Initiation

An application for final plat approval is filed with the Planning Official.

### C. Completeness Review

See § [18.40.040](#) Completeness Review.

### D. Decision

1. The Planning Commission will consider the final plat without a public hearing, unless the applicant requests a public hearing.
2. The Planning Commission may approve, approve with conditions, or deny the final plat.

3. The Planning Commission shall render its decision within 60 days after its first meeting after the plat is submitted to the Planning Official. If the Planning Commission fails to timely render its decision, the plat is deemed approved.
4. If the final plat is approved or the Planning Commission fails to render a timely decision, the Planning Official shall issue a certificate upon demand.
5. If the Planning Commission finds that the plat does not conform to subsection E below, it shall notify the owner or owners of that fact. The notice shall be in writing and shall specify in detail the reasons the plat does not conform to subsection E.
6. If the plat conforms to subsection E, the Planning Commission chair shall endorse on the plat the fact that the plat has been submitted to and approved by the Planning Commission. The secretary of the Planning Commission shall attest the chair's signature.
7. After the final plat is approved, the applicant shall submit it to the Governing Body for review if land is proposed to be dedicated for public purposes. The Governing Body shall approve or disapprove the dedication of land for public purposes within thirty (30) days after the first meeting of the Governing Body following the date of the submission of the plat to the City Clerk. The Governing Body may defer action for an additional thirty (30) days for the purpose of allowing for modifications to comply with the requirements established by the Governing Body. No additional filing fees shall be assessed during that period. The Governing Body shall advise the Planning Commission of its reasons for any deferral or disapproval of any dedication. Acceptance of lands and easements dedicated for public purposes that are approved by the Governing Body shall be endorsed on the plat by the Mayor. The City Clerk shall attest the Mayor's signature. (*Ord. 02-54 § 2, 2002*)
8. No plat shall be filed with the Register of Deeds office unless it bears the endorsement that the land dedicated to public purposes is approved by the Governing Body.
9. All conditions to approval of a subdivision by the Planning Commission or the acceptance of dedications of land by the Governing Body, and all waivers granted by the Planning Commission, shall be clearly stated on the final plat prior to its recording. (*Ord. 02-54 § 2, 2002*)

#### **E. Approval Criteria**

1. The Planning Commission shall approve a final plat if it determines that:
  - a. The final plat substantially conforms to the approved preliminary plat and any applicable conditions of approval.

b. The plat conforms to all applicable requirements of the Municipal Code [and Unified Development Ordinance](#), subject only to approved waivers.

2. If the applicant chooses not to submit a preliminary plat, the final plat is subject to the criteria for approving a preliminary plat and to subsection 1, above.

#### **F. Subsequent Applications**

1. A new plat application showing major modifications and/or revisions to the withdrawn or denied plat application may be submitted at any time.

#### **G. Scope of Approval**

1. After the Governing Body endorses its acceptance of lands and easements dedicated for public purposes, the final plat shall be recorded with the Register of Deeds of Johnson County as provided by law. No plat shall be recorded with the Register of Deeds prior to its endorsement by the Mayor.

2. After the applicant provides public improvements assurances and records the final plat, the applicant may construct the improvements shown on the plat and proceed to the building permit approval process.

#### **H. Recordkeeping**

1. Final plats shall be recorded with the Register of Deeds office within two (2) years following Governing Body approval of land dedicated to public purposes. Final plats which are not timely recorded are null and void.

2. No plat shall be recorded before the applicant submits satisfactory assurances for construction of public improvements.

#### **I. Final Plat Extensions**

1. Requests for final plat extension shall be made in writing to the Planning Official prior to the two (2) year expiration date provided above. Final plat extensions may only be granted by one of the following:

a. The Planning Official may administratively grant a one (1) year extension if no changes are made to any City ordinance, regulation or approved plans that would require a change in the final plat. The applicant may appeal the Planning Official's denial of an extension to the Planning Commission.

- b.** The Planning Commission, upon appeal from the Planning Official's decision to deny a final plat extension, may grant the one (1) year extension upon finding that the extension will not impact the City's ability to administer current ordinances or regulations.
- 2.** Final plat extensions are subject to all current excise taxes and/or development fees at the time of the extension approval. (*Ord. 15-16 §3, 2015*)

## Shelby Ferguson

---

**From:** Cynthia Kriesel <cann@vfemail.net>  
**Sent:** Friday, October 12, 2018 4:16 PM  
**To:** Shelby Ferguson  
**Cc:** Aimee Nassif  
**Subject:** UDO18-0002 Public Comments Regarding Quarries  
**Attachments:** 2016 email handout.pdf; Other places vibration limits handout.pdf; OSMRE and FHA Handout.pdf; OSMRE Slides Handout.pdf

Shelby,

Thank you for meeting with me this afternoon and confirming that the intent of the revised setback language is to maximize quarry operation setbacks from residential property and residences. As I stated in the meeting, I would like to see a draft, as soon as possible, of what the new proposed setback language is to achieve this intent.

Regarding quarry vibrations, attached to this email are pdf scans of the four handouts that I gave you during our meeting today. I want to again stress the importance of doing a test blast prior to changing or eliminating the 0.02 ips residential property vibration limit for quarry blasts. That is the only way that City representatives can experience in a residence what the higher proposed vibrations will feel like and determine whether or not a change is appropriate.

Please make sure that this email and all attachments become part of the UDO18-0002 packet.

Regards,

Randy Kriesel  
24120 West 167<sup>th</sup> Street  
Olathe, KS 66061  
October 12, 2018  
Cell Phone: 913-269-8959



Virus-free. [www.avast.com](http://www.avast.com)

**Cynthia Kriesel**

**From:** Cynthia Kriesel [cann@vfemail.net]  
**Sent:** Sunday, September 11, 2016 10:01 PM  
**To:** 'Amy Kynard'; 'David Knopick'  
**Cc:** 'Chris Grunewald'; 'Rachelle Breckenridge'  
**Subject:** RE: Proposed changes to Chapters 18.20 and 18.50 of the Unified Development Ordinance

Amy, Dave,

I downloaded the packet for the September 12, 2016 public hearing and saw the letter regarding the UDO text amendments from the law firm representing APAC. In the letter they claim that the current UDO vibration provisions "are not based on good science, or objective criteria." This claim is false because there nationally recognized standards that address criteria for annoyance caused by vibrations. These standards were looking at vibration annoyance caused by construction activities, but many cities have adopted the vibration annoyance approach to strictly limit ground transmitted vibrations from any uses. The vibration limit in the Olathe UDO for residential property is appropriate in order to avoid annoyance to residents (and not just address personal safety and/or damage to structures, which is what the standards referenced in the letter are concerned with). Some cities are even stricter than Olathe and prohibit any "measurable" ground transmitted vibrations on residential property.

**The criteria used in determining vibration annoyance inside a building depend on the type of activities, as well as time of day. Conservative design criteria used for assessing human sensitivity to vibration during construction activities have been developed by the International Organization for Standardization (ISO) and the American National Standards Institute (ANSI). These criteria levels are shown in the following table.**

<b>Building Use Category</b>	<b>Maximum Vibration Velocity (inches/second)</b>	<b>Notes</b>
Hospital and critical areas	0.005	
Residential (nighttime)	0.007	
Residential (daytime)	0.01	Also applies to churches, schools, hotels, and theaters
Office	0.02	Also applies to commercial establishments
Factory	0.03	Also applies to industrial establishments

**Source: ISO Standard 2631 (1974) and ANSI Standard S3.29-2001.**

I also noted that the letter extends an offer to meet with city representatives to provide information on "the appropriate standards" from their perspective. If possible, I would like to participate in any such discussions. If my participation is not possible, I would request a similar meeting with the city so that I can expand upon the information that I provided herein.

Regards,

Randy Kriesel

---

**From:** Cynthia Kriesel [mailto:cann@vfemail.net]  
**Sent:** Wednesday, August 31, 2016 3:15 PM  
**To:** 'Amy Kynard'; 'David Knopick'  
**Cc:** 'Chris Grunewald'; 'Rachelle Breckenridge'  
**Subject:** RE: Proposed changes to Chapters 18.20 and 18.50 of the Unified Development Ordinance

**ISO 2631 Mechanical vibration and shock -- Evaluation of human exposure to whole-body vibration**

***ANSI S3.29* Guide To The Evaluation Of Human Exposure To Vibration In Buildings**



**OFFICE of SURFACE MINING  
RECLAMATION and ENFORCEMENT****U.S. Department of the Interior**

<https://www.osmre.gov/resources/blasting.shtm>

“OSMRE recognizes that people are sensitive to blasting vibrations and can feel blasts that are as little as 2% of the legal vibration limits. Thus, blasting that shakes their homes, but is within legal limits, may often annoy people. Depending on person’s sensitivity, any given blast may be offensive. While OSMRE does not regulate this annoyance, the regulations do recognize that people need advance warning. To help minimize annoyance, the rules require warning signals (audible to residents within ½ mile) that alert the public of impending blasts. The meaning of the signals and the specific blasting times are provided in a blasting schedule notice that is mailed to residents within ½-mile of any blasting. Additionally, homeowners can ask questions about the blasting during the pre-blasting survey of their home (available to residents within ½ mile of coal mining permit boundaries).”

**OSMRE also has an online presentation entitled “Controlling the Adverse Effects of Blasting” which states the following.**

<https://www.osmre.gov/resources/blasting/docs/WYBlasterCertModules/8AdverseEffectsBlasting.pdf>

Past experience in human response to blasting has revealed that persons inside structures can detect, and will object to, air and ground vibration levels far below those that could damage structures.

**FACTS:**

- Low amplitude airblast (110 to 117 dB) can cause glass window panes and mid-walls to rattle, generating noise inside structures.
- Above 117 dB to 120 dB, airblast may cause some annoyance and fright.
- Ground vibrations as low as 0.02 ips are perceptible to residents inside structures.
- Low frequency ground vibration events are most annoying to people



[This is the OSMRE Table for blasting vibrations]

Distance (D) from the blasting site, in feet	Maximum allowable peak particle velocity (V max) for ground vibration, in inches/ second <sup>1</sup>	Scaled-distance factor to be applied without seismic monitoring <sup>2</sup> (Ds)
0 to 300	1.25	50
301 to 5,000	1.00	55
5,001 and beyond	0.75	65

<sup>1</sup> Ground vibration shall be measured as the particle velocity. Particle velocity shall be recorded in three mutually perpendicular directions. The maximum allowable peak particle velocity shall apply to each of the three measurements.

<sup>2</sup> Applicable to the scaled-distance equation of Paragraph (d) (3) (i) of this Section.

#### Other Federal Organizations

<https://www.fhwa.dot.gov/engineering/geotech/pubs/012844.pdf>

Rock Blasting and Overbreak Control (Federal Highway Administration)

In discussing blasting vibrations, the document states **“The annoyance and fear associated with it begins at levels much lower than the damage level for structures.”**

The document also discusses “non-damaging” effects of blasting vibrations and states:

**“many other effects occur that are disconcerting and alarming to persons who feel and hear the vibration. Some of these effects are:**

- Walls and floors vibrate and make noise.
- Pipes and duct work may rattle.
- Loose objects, plates, etc., may rattle.
- Objects may slide over a table or shelf, and may fall off.
- Chandeliers and hanging objects may swing.
- Water may ripple and oscillate.
- Noise inside a structure is greatly amplified over noise outside.
- Vibration is very disturbing to occupants. “

## **10.6 SENSITIVITY TO VIBRATION**

Human beings are remarkably sensitive to vibration. If this were not so, the vibration problem would scarcely exist. The explosives technology of today insures that most operations are conducted in a safe manner. In relatively few cases is there a significant probability of damage.

Since vibration is felt in practically all cases, the reaction to this sensation is one of curiosity, concern, and even fear. Hence, it is important to understand something about human response to vibration which depends on vibration levels, frequency and duration. In addition to these physical factors, it is important to keep in mind that human response is a highly subjective phenomenon.

Human response has been investigated by many researchers. One of the early investigations was by Reiher and Meister, Berlin, 1931. Other investigations were made by Goldman, 1948, and Wiss and Parmelee, 1974. A composite of these investigators' results was presented graphically in the U. S. Bureau of Mines RI 8507, Siskind, et al, 1980. This composite is represented here in Figure 10.28.

The human response curves are all similar and highly subjective in that the response is a mixture of physiological and psychological factors individual to each person. Based on these curves, a very simple and practical set of human responses can be designated as follows:

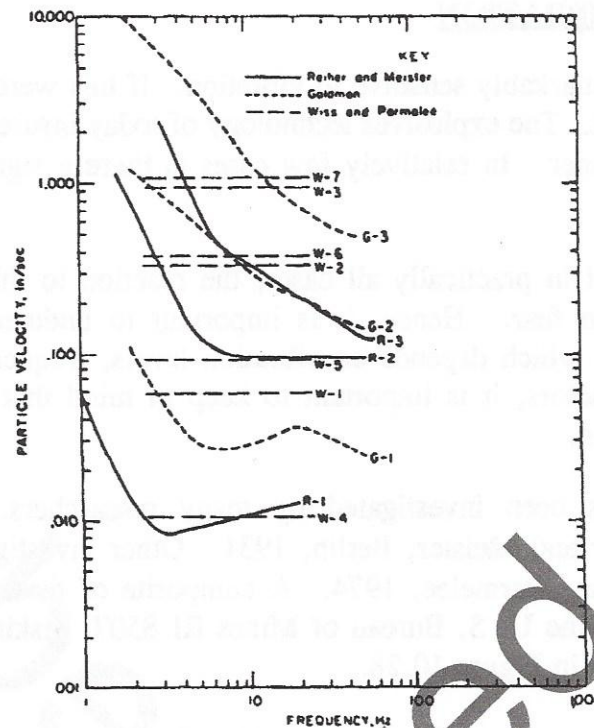
**TABLE 10.10 HUMAN RESPONSE**

RESPONSE	PARTICLE VELOCITY	DISPLACEMENT AT 10 Hz	DISPLACEMENT AT 40 Hz
Noticeable	0.02 in/s	0.00032 in	0.00008 in
Troublesome	0.2 in/s	0.0032 in	0.0008 in
Severe	0.7 in/s	0.011 in	0.0028 in

Vibration is a fact of daily life which one regularly experiences but is seldom aware of. This type of vibration has been designated cultural vibration. Generally, it elicits no reaction from the person affected.

Other vibration that contrasts sharply, because it is not part of the daily experience but is unusual, has been designated acultural. It surprises a person, is disturbing, and causes an acute awareness.





**Figure 10.28 Human Response To Vibration (RI 8507)**

Some example of cultural and acultural vibration are listed in the following:

**CULTURAL VIBRATION**

Automobile  
Commuter Train  
Household  
Industrial Plant or Office  
Airplane

Common Denominator:  
No reaction

**ACULTURAL VIBRATION**

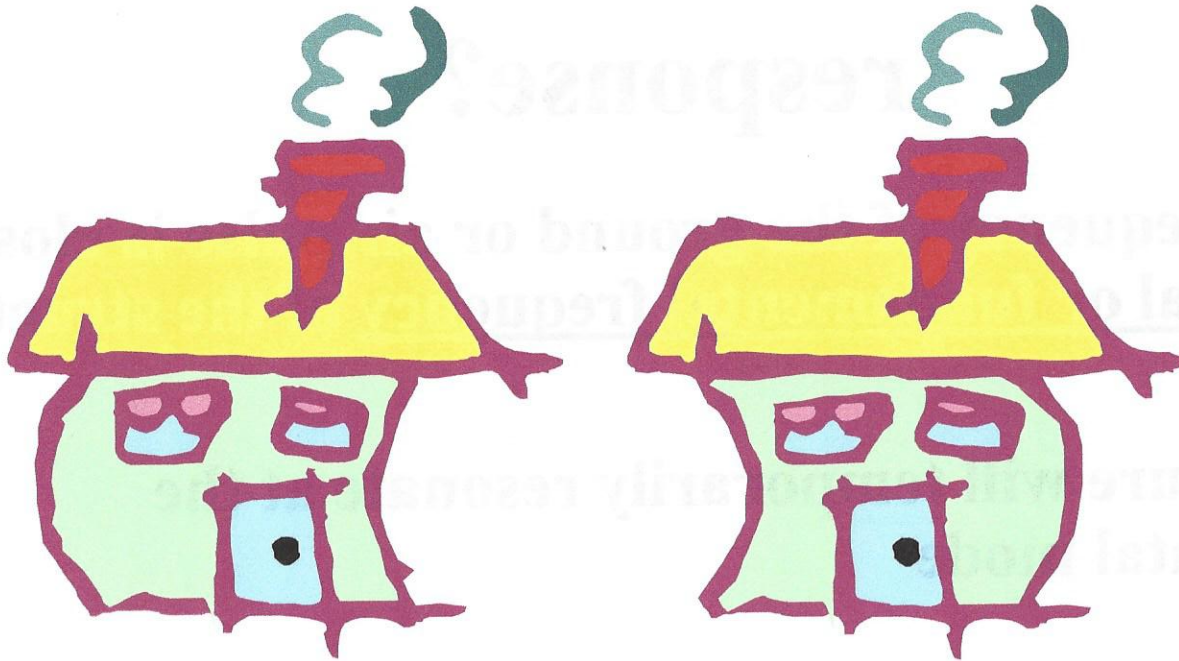
Blasting  
Pile Driving  
Impact Machinery  
Jack Hammer  
Forging Hammers

Common Denominator:  
Persons react because these vibrations  
are unfamiliar, disturbing

Blasting is definitely acultural for the average person. The annoyance and fear associated with it begin at levels much lower than the damage level for structures.

<https://www.osmre.gov/resources/blasting/docs/ATF/OSMREResponsibilitiesATF.pdf>

## Mid-wall response



Move like a drum and result in rattling (noise) of loose objects on, or resting against walls.

Motions do not result in wall cracking. But the noise can startle occupants, promoting the perception of structure damage.

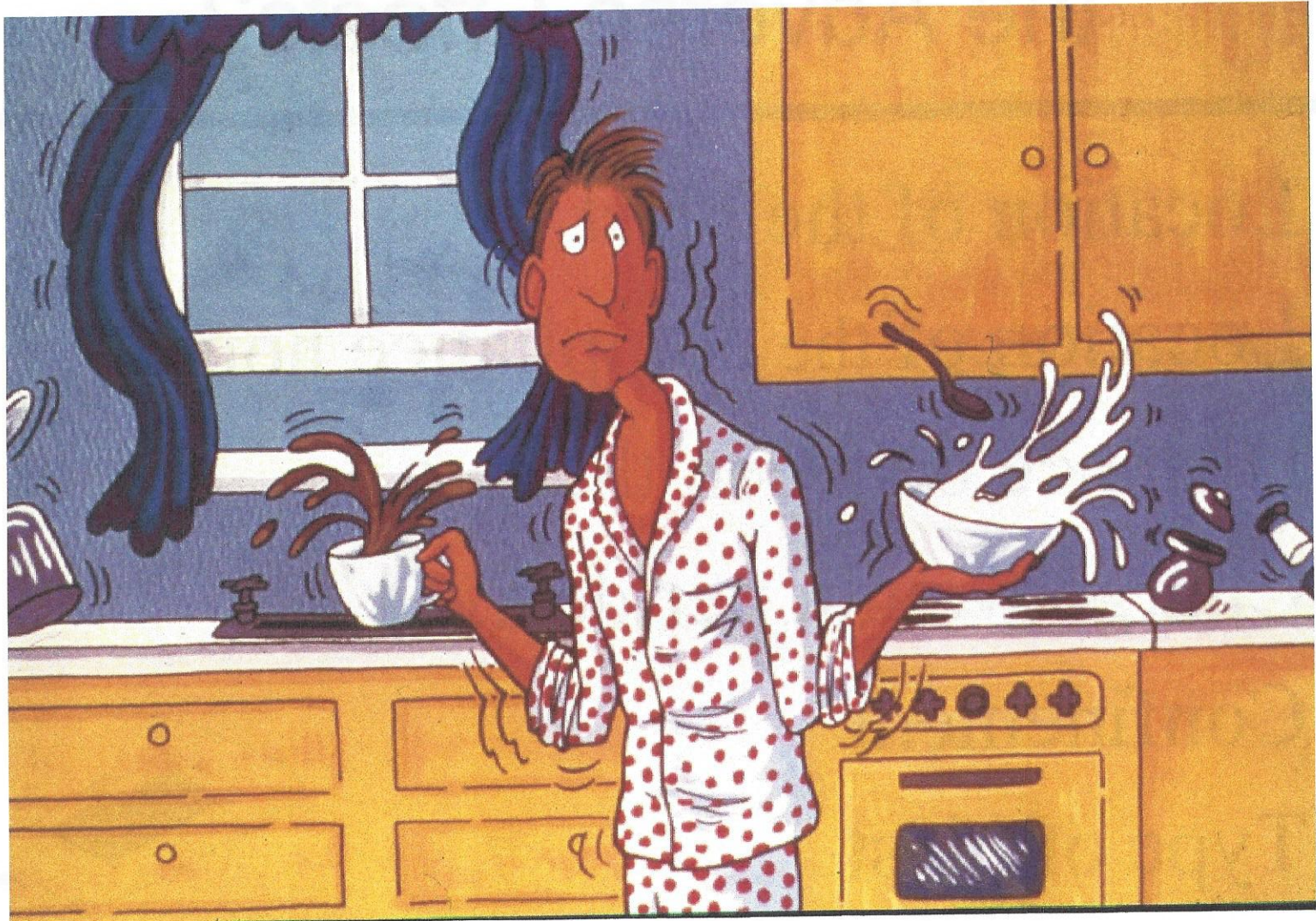
# What is the worst case scenario of response?

When the frequency of the ground or air pulse is close to the natural or fundamental frequency of the structure

- the structure will temporarily resonate at the fundamental mode
- the time duration of structure shaking may be far longer than that of the ground
- structures may exhibit an amplification of the ground excitations



# When the house shakes, owners are Annoyed or Fear Damage

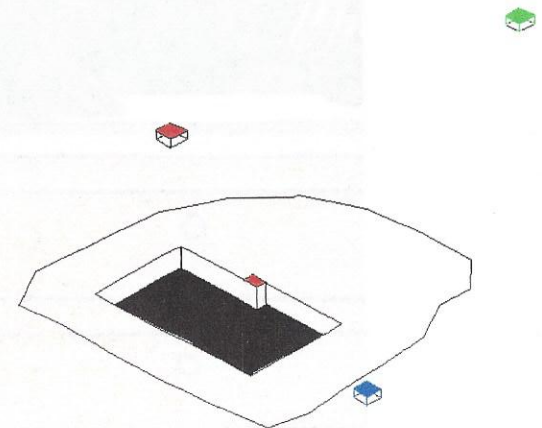




# What are the Most Important Parameters in Evaluating the Adverse Effects?

---

- Location of the blast
- Location of the compliance house
- Distance between the two
- Charge weight per delay
- Confinement
- Type of blast





**Other places that impose .02 inch per second or less vibration limit at residential property.**

Beloit, Kansas (near Salina)

Mohave County, Arizona

Albemarle County, Virginia (.015 inch per second)

Fairfax County, Virginia

Grand Forks, North Dakota

Utica, New York

Sugar Land, Texas

Lake Stevens, Washington

Carrboro, North Carolina

Chanceford Township, Pennsylvania

Fawn Township, Pennsylvania

McHenry, Illinois

Pittsfield Township, Michigan

State of New Jersey **(In any residential area, the peak particle velocity shall not exceed 0.02 inches per second during the hours of 7:00 A.M. to 9:00 P.M. and shall not exceed 0.01 inches per second during the hours of 9:00 P.M. to 7:00 A.M. )**

**From:** [Karen Hooven](#)  
**To:** [Michael Copeland](#)  
**Cc:** [Aimee Nassif](#)  
**Subject:** FW: UDO Changes Proposed for Olathe, KS  
**Date:** Tuesday, August 21, 2018 11:35:25 AM

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**From:** Jacinda Zerr <jzerr@farmersbankks.com>  
**Sent:** Friday, August 17, 2018 9:34 AM  
**To:** Michael Copeland <MCopeland@OLATHEKS.ORG>  
**Subject:** UDO Changes Proposed for Olathe, KS

Mayor Mike Copeland,

We have been contacted by several of our customers for whom we provide development financing in the city of Olathe. They have asked us to voice our recommendations regarding the recent proposed Olathe UDO changes. In supporting these customers, we are asking you to consider a 7 year sunset with a 2 to 4 year extension in regards to the period in which a preliminary plan will be in effect.

Please contact me with questions you might have and I could give you details of the Olathe developments we are currently financing.

Sincerely,

***Jacinda Zerr***

Market President  
Farmers Bank of Kansas City  
14231 Metcalf Ave.  
Overland Park, KS 66223  
Direct # 913-387-5563  
NMLS# 646380

**At Farmers Bank of Kansas City, our customers are our #1 priority. We work hard to make sure we offer the latest in financial services along with the kind of customer service you expect from a community bank. We are a financially strong and stable institution prepared for the future!**

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October 16, 2018

Chairman Vakas and Members of the Planning Commission, thank you for the opportunity to submit testimony on the 2018 Olathe Unified Development Ordinance amendments, 18.40.110. The Home Builders Association of Greater Kansas City is proud to be the voice of the local housing industry. Comprising approximately 800 member companies, the HBA represents an industry that supports over 20,000 local jobs and contributes more than \$1.5 billion to both short and long-term economic growth in the region.

The Home Builders Association greatly values our relationship with Olathe's local government as we share the common goals of promoting new economic growth, homeownership, affordable housing and strong communities.

Below is the KCHBA's recommended standards on the Site Development Plans:

**18.40.110.G – Scope of Approval**

18.40.110.G.1 There should not be an expiration on preliminary site development plans, but if one must be put in place it should be no less than a 7-year expiration.

We believe that a preliminary site plan expiration would be detrimental to Olathe's economic growth and development. The current system being utilized allows developers to develop and build based on market-driven demands, and when planning for the future provides a more stable business environment for long-term investment in Olathe.

As Olathe has been the highest permitting city in Johnson County for the last 10 years, the HBA recognizes and appreciates that the city has put forth a great effort to work collectively and harmoniously with local builders and developers to provide a platform for booming economic development. We urge you to keep our stance in mind when considering the adoption of the 2018 Olathe Unified Development Ordinance amendments.

Thank you for your consideration.

Sincerely,

Gary Kerns  
President  
Home Builders Association of Greater Kansas City



## MINUTES

### Planning Commission Meeting: October 22, 2018

<b>Application:</b>	<b><u>UDO18-0002</u>: Unified Development Ordinance Amendments</b>
<b>Applicant:</b>	City of Olathe, Public Works – Planning Services
<b>Staff Contact:</b>	Aimee Nassif, Chief Planning and Development Officer Shelby Ferguson, Planning Consultant

**Aimee Nassif**, Chief Planning and Development Officer, appeared before the Planning Commission to present updates to the Unified Development Ordinance, including Section 18:40 for procedures, plans and plats, and 18.30 and 18.50, which involve quarries and mines. She reminded commissioners that 18.40 was before them at the August 13th meeting and due to discussion on Chapter Section 18.40, the public hearing was held to allow additional community collaboration with staff. Staff collaborated with stakeholders and looked to other municipalities to see what they are doing in these two areas since that time.

**Ms. Nassif** noted that the UDO updates continue to be a work in progress and community engagement and collaboration is ongoing. Discussions are ongoing regarding several sections, mainly focusing on expiration of preliminary plans and staff is looking for feedback before proceeding to City Council.

Following **Ms. Nassif's** presentation, she said she was available for questions. Ms. Nassif also advised that staff is looking for feedback and input from the Planning Commission so that staff can proceed to City Council to update them on all the community engagement, recommendation from the Planning Commission, and seek direction on how to proceed. **Comm. Fry** commended the City and staff for their efforts in trying to find compromises. Comm. Fry asked how this moved on to City Council. Ms. Nassif responded that tonight, staff is looking for a recommendation from the Planning Commission, which she will take to City Council. Comm. Fry asked Ms. Nassif to explain why the City want preliminary plans to expire. Ms. Nassif responded that all other plans and plats have an expiration timeframe, and it is a good way to have a touchpoint back to the community. Also, because codes are updated annually, it is important to make sure that new development meets current code standards. Comm. Fry asked if Ms. Nassif thought there was a reason it was written to not have an expiration date when the UDO was revised. Ms. Nassif responded in the early 1990s, preliminary plans expired in one year. Later, expiration dates were removed. Now, after looking at the community's vision, it is thought that they should include an expiration date.

**Vice-Chairman Rinke** asked if someone who has a preliminary plan that doesn't expire will be grandfathered in the future. **Ms. Nassif** said there is no language to grandfather them however they can request an extension. Vice-Chairman Rinke asked about vibration standards for quarries. Ms. Nassif replied that existing special use permits are set at a .30.

**Comm. Nelson** asked if other developments have been held up because of a development that has not begun yet. **Ms. Nassif** developers do watch to see what sort of development is happening throughout the municipality as they market and lease ground space.

**Chair Vakas** opened the public hearing. **Randy Kriesel**, 24120 West 167th Street, approached the podium. Mr. Kriesel continues to be concerned about vibrations when blasting at the quarries. He stressed that the UDO amendments would not protect them from the effects of blasting. He closed by saying that the vibration change would be detrimental to the quality of life for those in his neighborhood. **Ms. Nassif** noted that Mr. Kriesel was correct, that one measurement is .75.

**David Waters**, Attorney, Lathrop Gage Law Firm, appeared on behalf of the Hamm Company, which operates two quarries. He and his clients support staff's recommendations and thanks them for making stakeholders a part of that process. **Chair Vakas** asked if vibration standards were lowered, what the impact would be in the blasting schedule. Mr. Waters said the lower the standard, the more blasting would need to occur.

**Pete Heaven**, Attorney, 9401 Indian Creek Parkway, Overland Park, appeared on behalf of Rodrock Homes, Rodrock Development, Prieb Homes and Blakeley Development. Mr. Heaven suggested that the proposed amendments won't accomplish what the staff believes they will. He believes the results will be catastrophic. He said the language in the current UDO works perfectly. Mr. Heaven expressed concern with several updates included in Section 18.40 including the expiration of preliminary plans and the updated language for final plats. **Comm. Munoz** asked Mr. Heaven if, in summarizing his comments, he wished to keep the UDO language the same. Mr. Heaven said yes.

**Harold Phelps**, Phelps Engineering, 1270 North Winchester, Olathe, approached the podium. He appreciated Mr. Heaven's comments and believed he outlined the major concerns of the development community. He notes that if the ordinance is passed, it would create work for engineers, but they want to support their clients, helping them get the best plan that works for everyone.

**Travis Schram**, President, Grata Development, 11282 S. Belmont Street, Olathe, approached the podium. He addressed the process and said it feels like there is a rush in the timetable. He does not feel this issue is ready to go to City Council. He is concerned about continuing to develop in Olathe. He does not want expirations on plans to change. **Comm. Fry** asked Mr. Schram to explain his objections. Mr. Schram said each phase needs to be a stand-alone development, which would eliminate the need for phasing, in general. **Ms. Nassif** said the area Comm. Fry is talking about exists in code today and is not being changed. Preliminary plats in excess of 40 acres are required to have a phasing plan. The code change defines what a phasing plan means. **Comm. Fry** is trying to understand if that change is supported by the development community. **Ms. Nassif** said the change is that preliminary plans have a phasing plan, as well, so as to have the ability to anticipate what is to come. **Chair Vakas** called for a motion to close the public hearing.

*Motion by Vice-Chairman Rinke, seconded by Comm. Sutherland, to close the public hearing.*

*Motion passed 6-0.*

**Vice-Chairman Rinke** noted that many of the comments received this evening are from residential developers. He asked Ms. Nassif if the same rule applied to commercial developers. **Ms. Nassif** said it does. Mr. Rinke asked if there are issues with both commercial and residential, and if the proposal would only apply to commercial developers and leave existing rules in place for residential. Ms. Nassif recommended that the rules be consistent as much as possible for both the residential and commercial developers.

**Comm. Nelson** asked Ms. Nassif to speak to the issue of conforming to the UDO versus conforming to the municipal code. **Ms. Nassif** said currently, other sections of the UDO state that those documents shall adhere to a certain section or sections of the UDO. For final plats, that is

the only document that doesn't reference that it should adhere to the UDO, which is why that language was being added.

**Comm. Fry** said he struggles with the purpose of the amendments and whether they are worth the potential detrimental effects. He is not comfortable moving the amendments on to City Council and proposes striking UDO amendments 18.40.110.B and 18.40.150.A and B. **Vice-Chairman Rinke** said he is not comfortable voting to approve if such a motion is made to that effect. Regarding the quarry, Vice-Chairman Rinke said he is comfortable leaving it at .02.

**Comm. Nelson** asked if there have been other neighbors who have expressed concern about the quarries and blasting. **Ms. Nassif** responded that there has been feedback from a variety of stakeholders over the last several months.

**Chair Vakas** noted that this conversation has been going on for many months and appreciates the collaboration between the development communities and quarry operators and City staff. He is not uncomfortable with the proposal as submitted but believes there are issues on the exploration of preliminary site development plans. He believes City Council needs to weigh in on that issue. Personally, he would like to send something forward to City Council, with the understanding that it's going to Council for discussion, not necessarily approval or disapproval.

**Comm. Sutherland** had a question about 18.40.150.B regarding phasing plans. He asked if a developer would have to come back if a phasing plan changed. **Ms. Nassif** said there is no information in the UDO that explains what a phasing plan is. She said it is not the intent for them to have to come back unless the plan itself changed.

**Comm. Nelson** feels that this issue has reached an impasse and the potential to bring to conclusion is non-existent at this level. **Chair Vakas** called for a motion.

*Motion by Comm. Fry, seconded by Comm. Sutherland, to recommend approval of UDO 18-0002, per staff recommendations, as amended:*

Staff recommends approval of the proposed amendments to the *Unified Development Ordinance (UDO)*, as detailed in the attached UDO Amendments Exhibit for the following Chapters and associated subsections herein: 18.30.190, 18.40.110, 18.40.150, 18.40.160, and 18.50.160.

*Motion includes striking staff recommendation 18.40.110.B and staff recommendation 18.40.150.A and B.*

**Comm. Nelson** is concerned that Comm. Fry is striking a recommendation, not language.

*Aye: Sutherland, Fry, Munoz, Vakas (4)*

*No: Rinke, Nelson (2)*

*Motion was approved 4-2.*