

Division 2. General Procedures**Section IV-201. Applications and Administrative Review****A. Pre-Application Conference (optional)**

1. Request and Scheduling. An applicant for development approval may, at their option, request an informal conference with a representative of the Planning Department or the Development Review Committee (DRC) by notifying the Director of Planning prior to filing an application.
2. Purpose of Conference. The pre-application conference shall be informal and its purpose shall be to discuss the proposals, views and concerns of the applicant, or whether any additional information will be required.
3. Letter of Understanding. After a pre-application conference, the Director of Planning shall transmit a Letter of Understanding to the applicant, with a copy to the City Manager, setting forth the substance of the pre-application conference.

B. Neighborhood Workshops. All applicants for any of the following shall hold a neighborhood workshop prior to submitting an application:

- (1) amendments to the Future Land Use Map Series of the Sarasota City Plan (1998),
- (2) rezoning / rezone ordinance amendment,
- (3) major and minor conditional uses,
- (4) street and right-of-way vacations,
- (5) G zone waivers,
- (6) development agreements, or
- (7) amendments to the foregoing that require action by the Planning Board or City Commission.

The purpose of the neighborhood workshop shall be to inform the neighboring residents of the nature of any proposed land use(s), development features, site plan, street vacation, and solicit comments. This requirement shall not mean that all owners or tenants must attend such a meeting.

Notice shall be provided by mail at least fourteen (14) days prior to the date of the neighborhood workshop to each owner of record of any land within five hundred (500) feet of the property for which the development approvals are sought and to neighborhood associations who have registered with the Office of the City Auditor and Clerk to receive notice. The notice shall include at a minimum the following: the applicant's name and

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telephone number, the street address of the site with a small identification map, a clear explanation of what the applicant is proposing and the date, time and location of the meeting. The City Manager may promulgate administrative regulations setting forth guidelines pertaining to any additional requirements for the conduct of the workshop.

C. Simultaneous Applications. Applications for development approvals may be filed and reviewed simultaneously, at the option of the applicant, provided however, that any application for development approval that also requires a variance shall not be processed for final approval until the variance has been granted.

D. Application Submission Requirements [Sec. 4.4]

1. All applications for development approval shall be submitted to the City Auditor and Clerk's Office in a form specified by the Director of Planning, accompanied by the payment of a fee in accordance with the provisions of Section IV-102. Applicants for development approval may be required to submit additional information that the City may deem necessary to review the proposed development.
2. All applications for development approval shall contain the submittal requirements established by administrative regulation.

E. Determination of Completeness of Application. When an application for development approval is submitted, the City Auditor and Clerk's Office shall determine whether the application is complete. If the application is complete, the Notice of Filing shall be mailed and the application shall be forwarded to the DRC. If the application is not complete, it shall be returned to the applicant. The City shall take no further action on the application until the deficiencies are corrected. A Notice of Filing is required to be mailed for the following types of applications: site plans, including administrative site plans that are reviewed by the DRC; rezoning, rezone ordinance amendments; final plats; conditional uses; historic designations; development permits for developments of regional impact; adult use permits; development agreements; G Zone Waivers; amendments to the comprehensive plan; street vacations; off-site parking agreements and amendments to any of the foregoing.

F. Determination of Sufficient Application. After an application is determined complete, each department that is a member of the DRC shall review the application for sufficiency and shall provide comments to the DRC.

1. Determination of Sufficient Application. The DRC shall determine if the application is sufficient, and shall notify the applicant of additional information that is required to be submitted.
2. Remedy of Insufficiencies. If the applicant fails to respond to the specified insufficiencies within 90 days of the date of the letter providing notification of deficiency, the application for development approval shall be deemed withdrawn.

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3. **Additional Information.** If an applicant submits additional data or information at any time after a determination of completeness has been made, the revised application will be subject to the same stages of review as the initial application.
4. **Staff Analysis.** After an application is determined sufficient, the DRC shall review the application for development approval and the comments of all members of the DRC. The Planning Department shall collect the comments of the other departments and shall prepare a written analysis of the issues raised by the application.

(Ord. No. 99-4147, Sec. 2, 7-19-99, Ord. No. 03-4429, sec. 4, 1-21-03)

Section IV-202. Notices and Public Hearings

A. **Applicability.** The procedures set out in this Section shall be applicable to all public hearings, required by any provision of these regulations.

B. Type of Hearing Required

1. **Legislative.** The following land development approval hearings will be conducted legislatively:
 - a. Amendments to the Text of the Zoning Code
 - b. Comprehensive Plan and Future Land Use Map Amendments
 - c. Development Agreements not accompanied by a quasi-judicial development approval
 - d. Street and Right-of-Way Vacations
2. **Quasi-judicial.** The following land development approval hearings and administrative appeals will be conducted quasi-judicially:
 - a. Site Plans
 - b. Variances
 - c. Major and Minor Conditional Uses
 - d. Historic Designation and the Granting or Revoking of Certificates of Appropriateness
 - e. Site Specific Rezonings
 - f. "G" Zone Waivers

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- g. Development Agreements, if accompanied by a quasi-judicial development approval
 - h. Off-site or Shared Parking Agreements
 - i. Subdivisions/Plats
- C. Determination of Who Will Conduct the Quasi-judicial Hearing
- 1. The Board of Adjustment will conduct the quasi-judicial hearing for variance applications and administrative appeals.
 - 2. The Historic Preservation Board will conduct the quasi-judicial hearing for historic designation and certificate of appropriateness applications.
 - 3. Both the Planning Board and the City Commission will conduct the remaining required quasi-judicial hearings noted in Section IV-202(B)(2) above.
- D. Notice of Public Hearing. The City Auditor and Clerk's Office shall be responsible for providing the notices required herein.
- 1. All notices of public hearings shall include:
 - a. The date, time and place of the hearing;
 - b. A summary of the proposal under consideration; and
 - c. The address of the property and a locational map graphically portraying the location of the property (if applicable);
 - 2. All notices of public hearings shall be provided:
 - a. By publication of a copy of the notice in one or more newspapers with general circulation in the City of Sarasota;
 - b. By sending a copy of the notice by mail to each owner of record, if different from the applicant, of any land on which development is proposed;
 - c. By sending a copy of the notice by mail to each owner of record, of any land within five hundred (500) feet of the property on which development is proposed. For the purpose of this provision, the owners of such adjacent or nearby properties shall be deemed those whose names appear on the latest available tax rolls of the County of Sarasota. Failure to notify any such property owner shall not invalidate the hearing or subsequent action related thereto; and

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- d. By sending a copy to Neighborhood Associations and those additional people who have registered with the office of the City Auditor and Clerk to receive notice.
 - e. By the City conspicuously posting, at least ten (10) days prior to a required public hearing, a weatherproof sign(s), which are provided by the City Auditor and Clerk's Office at least two (2) by three (3) feet in front surface area, the bottom of which shall be mounted at least four (4) feet above the ground, on every roadway frontage of the zoning lot proposed for development. Such sign(s) shall remain until the conclusion of the public hearing.
3. Time of Notice. Except as otherwise required by Florida Statutes for amendments to the text of the LDR's, comprehensive plan and future land use amendments, site specific rezonings and development agreements, all required notices shall be provided at least fifteen (15) days prior to the public hearing.

E. Examination and Copying of Application and Other Documents. All materials submitted in regard any application for development approval is a public record and shall be available for inspection and copying.

F. Conduct of the Quasi-Judicial Hearing

1. Summary of Evidence and Disclosure of Report. The applicant shall file a disclosure report with the City Auditor and Clerk's Office at the time the application for development approval is filed. The disclosure report shall include the following:
 - a. Names and addresses of witnesses the applicant intends to call at the hearing;
 - b. The names and addresses of expert witnesses to be used, if any, including a statement of the expert's qualifications;
 - c. A summary of the facts to be presented by applicant personally or by use of a witness or expert.
 - d. Copies of reports, studies, letters, documentary evidence and summaries of evidence to be used, if any, and to the extent there is any change in the disclosure report or summary of evidence, the applicant shall submit supplemental information no later than ten (10) days prior to a scheduled public hearing.
 - e. In the event the applicant intends to respond to comments of the DRC or neighborhood input and questions, the applicant shall submit supplemental information no later than ten (10) days prior to a scheduled public hearing.
2. Opening Matters and Preliminary Remarks

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- a. The City Auditor and Clerk's Office or Board Secretary shall describe the application, identify the applicant and other persons to the proceedings, and announce the order of presentation.
 - b. Disclosure of *ex parte* communications to City Commission or Board members, if any, which shall be made a part of the record.
 - c. The City Auditor and Clerk's Office or Board Secretary shall swear the witnesses unless they were previously sworn as part of the regular public meeting process of the City Commission or Planning Board.
3. Presentation of Case In Chief. The applicant, the City and any others persons may present testimony and documentation to the City Commission or Planning Board. Only the applicant, City, and any affected person (as hereinafter defined) may examine witnesses and may conduct cross-examination of other persons who provided testimony. Only the applicant, affected persons, and City may provide rebuttal testimony. The City Commission or Planning Board as applicable shall have the authority to decide who is an affected person as defined herein. For purposes of this paragraph, "affected person" shall mean:
- a. An owner, resident, or other occupant of real property located within five hundred (500) feet of the real property which is the subject of a quasi-judicial hearing, the owner's, resident's, or occupant's designated representative or a designated representative of the neighborhood association whose members consist of such owners, residents or occupants. Such distance shall be measured in a straight line from the nearest property boundary of the zoning lot(s) which is the subject of a quasi-judicial hearing to the nearest property boundary of the zoning lot owned or occupied by the affected person. The term "designated representative" shall mean a person who has written authorization to represent an owner, resident, occupant or neighborhood association. In the case of an owner, resident or occupant the authorization shall be signed by said owner, resident, or occupant. In the case of a neighborhood association, the authorization shall be signed by an officer or member of the board of directors of the neighborhood association; or
 - b. A person who will suffer a negative effect to a protected interest as a result of the quasi-judicial action sought by the applicant. Although the adversely affected interest may be shared in common with the other members of the community at large, the adversely affected interest shall exceed in degree the general interest in community good that is shared by all persons. Examples of such impact may include negative traffic impact resulting from the proposed use with respect to surrounding uses and whether the physical appearance of the proposed use is compatible with the character of surrounding uses.
4. Hearing before the Planning Board

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- a. In regard to rezoning, major conditional uses, "G" zone waivers, and development agreements, the Planning Board, at the conclusion of the public hearing, shall recommend approval, approval with conditions, or denial of the application. Action taken by the Planning Board to recommend approval or approval with conditions for a major conditional use or "G" zone waiver shall be documented in the form of a resolution containing a legal description of the real property to which the application applies, together with the terms of the approval. Such resolution shall be recorded in the Public Records of Sarasota County by the City Auditor and Clerk.
- b. In regard to site plans and minor conditional uses, the Board, at the conclusion of the public hearing, shall grant, grant with conditions, or deny the application, subject to appeal under Section IV-505 in regard to site plans and under Section IV-905(A) in regard to minor conditional uses. Action taken by the Planning Board to grant a minor conditional use with or without conditions shall be documented in the form of a resolution containing a legal description of the real property to which the application applies, together with the terms of the minor conditional use approval. Such resolution shall be recorded in the Public Records of Sarasota County by the City Auditor and Clerk.

5. Hearing Before the City Commission

- a. **Rezoning:** The City Commission shall, in accordance with the provisions of Section IV-202, review the proposed rezoning, the written staff analysis and the recommendation of the Planning Board, and shall approve, approve with conditions, or deny the rezoning and site plan, if any, after a public hearing. Action taken by the City Commission to approve a rezoning with or without conditions shall be documented in the form of an ordinance which rezones the subject property and shall state with specificity any conditions offered by the Petitioner and accepted by the City Commission pursuant to Section IV-1102(B).
- b. **Major Conditional Uses and Development Agreements:** Upon receipt of the recommendation of the Planning Board, in the form of a resolution, and the written staff analysis, the City Commission, at its option, may affirm the Planning Board's resolution without a hearing. If the City Commission affirms the Planning Board resolution, the City Auditor and Clerk shall verify and record, in the Public Records of Sarasota County, the Planning Board resolution with a notation on the resolution of the date of its affirmation by the City Commission. The City Commission may also hold a public hearing to consider the application for a major conditional use and grant, grant with conditions, or deny the application. Action by the City Commission, at its public hearing, to grant a major conditional use with or without conditions shall be documented in the form of a resolution containing a legal description of the real property to which the major conditional use applies, together with the terms of the major conditional use and any conditions imposed. Such resolution shall be recorded in the Public Records of Sarasota County by the City Auditor and Clerk. Upon receipt of the

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recommendation of the Planning Board and the written staff analysis, the City Commission, shall hold a public hearing to consider the application for a development agreement and grant, grant with conditions or deny the application. Action taken by the City Commission to approve a development agreement shall be in the form of a motion authorizing execution of the development agreement by the Mayor and City Auditor and Clerk.

(Ord. No. 04-4515; Sec. 4, 1-20-04)

- c. 'G' Zone Waivers: Upon receipt of the Planning Board's recommendation, and the written staff analysis, the City Commission may either affirm the Planning Board's recommendation without a hearing or hold a public hearing on the application for a 'G' Zone Waiver and grant, grant with conditions or deny the application. Action taken by the City Commission to grant a 'G' zone waiver with or without conditions shall be documented in the form of a resolution containing a legal description of the real property to which the waiver applies, together with the terms of the waiver and any additional conditions imposed. Such resolution shall be recorded in the Public Records of Sarasota County by the City Auditor and Clerk.
6. The City Commission or Board may adopt by resolution additional rules for the conduct of quasi-judicial public hearings.
 7. Continuance. The City Commission or Board may continue a hearing to a specified date, time, and place. Unless such continuance is publicly announced at a properly noticed public hearing, the City Auditor and Clerk's Office or Board Secretary shall cause notice to be given to all persons originally entitled to notice, of the date, time and place of such continued hearing in the same manner as specified herein.
 8. Record of Hearing
 - a. The City Auditor and Clerk's Office or Board Secretary shall ensure that the proceedings are recorded by appropriate means. If a sound recording is made, any person shall be entitled to listen to the recording at any reasonable time or to make copies at his own expense.
 - b. The record of proceedings shall consist of the recording of testimony, all applications, exhibits and papers submitted in any proceeding with respect to the matter being considered, and the summary and staff analysis prepared by the Department of Planning.
- G. Restriction on Rehearings. Rehearings may be permitted on any matter after the close of the public hearing only upon a determination by the Commission or Board within ten (10) days of the hearing that the decision was based upon mistake, fraud or misrepresentation. If rehearing is granted, notice shall be provided in the same manner as the original proceeding.

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H. Other Rules to Govern. Other matters pertaining to the public hearing shall be governed by other provisions of these regulations applicable to the body conducting the hearing and its adopted rules of procedure.

I. Contacts Outside of the Hearing. The following provisions relating to *ex parte* contacts shall govern the conduct of members of the City Commission, Planning Board, Board of Adjustment, and Historic Preservation Board who receive an *ex parte* communication from a person outside the hearing:

1. If the *ex parte* communication takes the form of a written communication, the written communication shall be provided to the City Auditor and Clerk's Office, after receipt by the Commissioner or board member, and shall be made part of the record in accordance with the procedures outlined in Section IV-202(F)(2).
2. If the communication is oral, the Commissioner or board member shall identify the subject of the communication and identify the person, group or entity with whom the communication took place in accordance with the procedures outlined in Section IV-202(F)(2).
3. If the Commissioner or board member conducts investigations, makes a site visit or receives expert opinions outside the public hearing, then the existence of the investigation, site visit or expert opinion shall be made a part of the record in accordance with the procedures outlined in Section IV-202(F)(2).

J. Waiver of Time Limits. Any applicant who requests a continuance of a public hearing at which his application is being considered, or who requests an extension of any time limit imposed on him by statute or these regulations, shall be deemed to have agreed to an extension of that time limit.

K. Successive Applications. Whenever any application for development approval of a conditional use permit or a rezoning is denied, an application involving the same property shall not be accepted for filing within one (1) year from the date of action by either the Planning Board or City Commission, whichever occurs first, unless the subsequent application involves a development proposal which is materially different from prior proposals, in the opinion of the City Commission or is responsive, in the opinion of the City Commission, to negative findings set forth in the denial of the prior application.

(Ord. No. 99-4113, Sec. 4, 3-15-99; Ord. No. 99-4128, Sec. 2, 5-03-99; Ord. No. 00-4193, Sec. 4, 2-22-00)

Section IV-203. Concurrency Certificate

A. General Requirement. A certificate of concurrency shall be required prior to the issuance of any development approval including those determined to be *de minimis*, except historic designation, comprehensive plan amendment, certificate of appropriateness, zoning text amendments and street vacations. If a development will require more than one (1) development approval, the issuance of the certificate of concurrency shall occur prior to the issuance of the initial development approval. The Director of Planning and Development shall be the official signatory of all certificates of concurrency that result from development

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approvals that require Planning Board action. The Director of Building, Zoning and Code Enforcement shall be the official signatory of all certificates of concurrency that result from development approvals that only require issuance of either a zoning approval or building permit.

B. *De minimis* Development. If a proposed development relates to land use of such a low intensity as to have a *de minimis* effect, if any, upon the level of service standards set forth in the Sarasota City Plan, the development shall be exempt from concurrency review as provided below.

1. Potable water, wastewater, solid waste, recreation/open space and stormwater management. Development approvals for single-family dwellings and two-family dwellings shall be deemed *de minimis* as to all public facilities and services. Development approvals for the addition to or the erection of structures of less than fifteen hundred (1,500) square feet utilized for non-residential purposes shall be deemed *de minimis*.
2. Transportation facilities. A *de minimis* impact is an impact that would not affect more than 1 percent (1%) of the maximum volume at the adopted level of service of the affected transportation facilities as determined by the City, utilizing the most recent table of the generalized two-way peak hour volumes in the Florida Department of Transportation (FDOT) *Level of Service Handbook*. No impact will be *de minimis* if the sum of existing roadway volumes from approved projects on a transportation facility would exceed 110 percent of the maximum volume at the adopted level of service of the affected transportation facility. No impact will be *de minimis* if it would exceed the adopted level of service standard for any affected designated hurricane evacuation routes. If a proposed project is not deemed *de minimis*, a transportation study is required.

C. Purpose. The purpose of the certificate of concurrency process is to ensure the existence of sufficient infrastructure to maintain the levels of service adopted in the Comprehensive Plan which are impacted by the proposed development.

D. Application. An applicant for a development approval shall provide the City with all information required by the City so as to enable the concurrency evaluation to be made, this shall include all of the information required in the Methodology for Calculating Projected Demand for Certificates of Concurrency as detailed in [Appendix A](#) of these regulations. Official copies of the methodology shall be kept on file in the office of the City Auditor and Clerk's Office and in the Engineering Department, and shall be available to the general public for inspection and copying.

E. Minimum Requirements for Concurrency. In order to obtain a certificate of concurrency, the following conditions applicable to the particular public facility and service must be satisfied:

1. Sanitary sewer, solid waste, drainage, and potable water facilities:

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- a. The development approval is issued subject to the condition that, at the time of the issuance of a certificate of occupancy, the necessary facilities and services are in place and available to serve the new development; or
 - b. At the time the development approval is issued, the necessary facilities and services are guaranteed in an enforceable development agreement, pursuant to Sections 163.3220 - 163.3243, *Florida Statutes*, to be in place and available to serve the new development at the time of the issuance of a certificate of occupancy.
2. Parks and Recreational Facilities:
- a. At the time the development approval is issued, the necessary facilities and services are in place or under actual construction; or
 - b. A development approval is issued subject to the condition that, at the time of the issuance of a certificate of occupancy, the acreage for the necessary facilities and services to serve the new development is dedicated or acquired by the City of Sarasota, or funds in the amount of the developer's fair share are committed; and
 - i. The development approval is issued subject to the conditions that the necessary facilities and services needed to serve the new development are scheduled to be in place or under actual construction no more than one (1) year after the issuance of a certificate of occupancy as provided in the adopted City of Sarasota five (5) year schedule .of capital improvements; or
 - ii. At the time the development approval is issued, the necessary facilities and services are the subject of a binding executed agreement between the City and a contractor which provides that the necessary facilities and services to serve the new development are to be in place or under actual construction no more than one (1) year after the issuance of a certificate of occupancy; or
 - iii. At the time the development approval is issued, the necessary facilities and services are guaranteed in an enforceable development agreement, pursuant to Sections 163.3220 -163.3243, *Florida Statutes* to be in place or under actual construction no more than one (1) year after issuance of a certificate of occupancy.
3. Transportation Facilities:
- a. At the time a development approval is issued, the necessary facilities and services are in place or under construction; or
 - b. At the time a development approval is issued, the necessary facilities and services are the subject of a binding executed agreement between the City and a contractor

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which provides that the necessary facilities and services to serve the new development are to be in place or under construction no more than three (3) years after the issuance of a certificate of occupancy; or

- c. At the time a development approval is issued, the necessary facilities and services are guaranteed in an enforceable development agreement, pursuant to Sections 163.3220 - 163.3243, Florida Statutes, to be in place or under actual construction no more than three (3) years after issuance of a certificate of occupancy.

F. Credits

1. **Vacant Structures.** Property upon which a lawfully existing vacant structure is located shall be credited with the number of trips which the last lawfully existing use would have generated, calculated by utilizing the latest ITE Trip Generation Report. The total number of credited trips shall not exceed the number of trips which would be generated by the use proposed in the application for a development approval.
2. **Demolished Structures**
 - a. Property upon which a structure was demolished on or before March 13, 1989, is not eligible to be credited with any trips generated by the last lawfully existing use.
 - b. The property upon which a structure was demolished after March 13, 1989, shall be credited with the number of trips which the last lawfully existing use would have generated utilizing the most recent edition of the ITE Trip Generation Report. Provided, however, commencing five (5) years from the date the structure was demolished, the total number of credited trips shall be reduced by twenty (20) percent each year for the next five (5) years. Therefore, after a period of ten (10) years from the date the structure was demolished, the property would have no remaining credited trips.

G. Appeals. A denial of a certificate of concurrency may be appealed by the applicant to the Planning Board. A notice of appeal specifying each and every ground in support of granting the certificate of concurrency shall be submitted by the applicant to the City Auditor and Clerk's Office within twenty (20) days from the date of the written denial of the certificate of concurrency.

1. The applicant shall have the burden of proof to establish by the presentation of substantial competent evidence to the Planning Board:
 - a. That there was an error in the technical determination made by the City Administration to deny the certificate of concurrency; or
 - b. That one (1) or more of the conditions in subsection E are satisfied such that the necessary public facilities and services will be available concurrent with the impact of the development.

H. Expiration. A certificate of concurrency shall automatically expire simultaneously with the expiration of the development approval to which it applies. In the event that a time extension is granted prior to the expiration of a development approval, then the accompanying certificate of concurrency shall be automatically renewed for the length of the time extension.

(Ord. No. 00-4196, Sec. 2, 2-7-00)

Section IV-204. Certificate of Occupancy

A. General Requirement. No building or structure shall be occupied or used until a certificate of occupancy is issued by the Building Official after a determination that the building has been constructed in accordance with the provisions of any conditional use approval, plat approval or building permit.

B. When a Certificate is Issued. A certificate of occupancy shall be issued for any of the following, after compliance with all provisions of these regulations has been determined:

1. Occupancy and use of a building hereafter erected, reconstructed, enlarged, or moved.
2. Change in use of an existing building.
3. Occupancy and use of vacant land.
4. Change in the use of land to a use of a different classification.

C. Procedure

1. Application. An application for a certificate of occupancy shall be filed with the Building Official.
2. Action on Application. The Building Official shall inspect the property that is the subject of an application for a certificate of occupancy to determine whether the use of the property and the structures comply in all respects with the provisions of these regulations, including the provisions of any conditional use. If the use and structure does not comply with these regulations or others provision of the Standard Building Codes, the Building Official shall deny the application, in writing, setting forth the provisions of these regulations or the Standard Building Codes with which the use or structure does not comply.