

Part 2. Administration

201. By-Right FBC Applications

The Zoning Administrator is authorized to approve applications for DEVELOPMENT PROJECTS smaller than 40,000 square feet, consisting only of new structures that are fully compliant with this Code, and where no modifications are requested under Section II.D.

202. Special Exception Use Permit Applications

The Special Exception Use Permit process will be required for DEVELOPMENT PROJECTS that meet any of the following criteria:

- A. DEVELOPMENT PROJECTS larger than 40,000 square feet;
- B. DEVELOPMENT PROJECTS with building floorplates larger than 30,000 square feet;
- C. Request for a hotel that includes 7,500 square feet or more of conference room or banquet facility Gross Floor Area (GFA);
- D. Request for approval of any special circumstances as set forth in Section II.C.
- E. Request for approval of any modifications, as set forth in Section II.D.

203. Special Circumstances

In order to better incorporate HISTORIC STRUCTURES and HISTORIC FACADES shown on the REGULATING PLAN into DEVELOPMENT PROJECTS with redevelopment, the County Board may, subject to HALRB review, and approval of a Certificate of Appropriateness (CoA), as provided in Section II.E.4, and by use permit approval as provided in Section II.E.3.b, approve:

- A. Modifications of the parking requirements set forth in Section III.B.4 for that portion of the project that includes the HISTORIC STRUCTURES and HISTORIC FACADES;
- B. Modification of the following:
 - 1. Utility undergrounding as provided in Section III.B.7; and
 - 2. Provision of street furniture as provided in Section III.B.7 and Section V.
- C. Up to two bonus stories with appropriate design and tapering, on the remainder of the site, provided that the overall building height is within the maximum (in feet) for the site.

For example, on a MAIN STREET SITE, the maximum height is 6 STORIES, the equivalent to 94 feet under the Form Based Code. (Maximum floor heights are 24 ft., 14 ft., 14 ft., 14 ft., 14 ft.) Thus, up to an additional two STORIES are permitted, but overall building height cannot exceed 94 feet.

204. Modifications

A. Purpose

The County Board may, through approval of a use permit, modify the provisions of this Code as set forth in Section II.D.2 upon a finding that, after the proposed modification, the subject development and where applicable, existing buildings, structures, HISTORIC STRUCTURES and HISTORIC FACADES to be retained, will better accomplish the purposes and intent of this Code and the goals of the Columbia Pike Initiative Plan than would the development without those modifications and that the proposed uses will neither: 1) adversely affect the health or safety or persons residing or working in the neighborhood of the proposed use; nor 2) be detrimental to the public welfare or injurious to the property or improvements in the neighborhood; nor 3) be in conflict with the purposes of the master plans of the County.

B. Allowable Modifications:

In approving a use permit application, the County Board may modify only the following requirements of this Code:

1. Height of first floor relative to fronting sidewalk elevation;
2. Required Building Lines (RBLs) for the location of STREETS, for HISTORIC STRUCTURES and HISTORIC FACADES, and for existing parking garages as of February 25, 2003;
3. Location of alleys;
4. Breaks between buildings;
5. STREETSCAPE details;
6. Design issues related to the inclusion of existing buildings, HISTORIC STRUCTURES, HISTORIC FACADES or mature trees;
7. Parking ratios for hotels and/or associated conference/banquet facilities;
8. Signs, only as provided in Section VI.F and ACZO §13.2; and
9. Modifications associated with special circumstances as provided in Section II.C.

205. Applicant Requirements and Review Processes

A. Submission Requirements

Each preliminary and final application shall include all materials identified in Administrative Regulations 4.1.2, including by way of illustration, and not limitation, the following”

1. Plans and documentation indicating the proposed new development; the location, condition, and any renovation of existing buildings to be retained; and other site improvements;
2. A LEED scorecard, or equivalent scorecard for another green building standard system;
3. A Transportation Impact Analysis (TIA) for any development project with 100,000 square feet or more of gross floor area (GFA).

B. Preliminary FBC Applications

1. For all DEVELOPMENT PROJECTS, Preliminary FBC Applications shall be submitted to the Administrative Review Team for review.
2. When a preliminary application has been determined by the Administrative Review Team to be compliant with the regulations set forth in this Code, except to the extent modifications are being requested through use permit approval:
 - a. The Administrative Review Team will forward the application to the Form Based Code Advisory Working Group (AWG) and schedule a review meeting with the AWG.
 - b. Prior to the AWG meeting, applicants shall provide copies of the application to the Columbia Pike Revitalization Organization (CPRO) and to the civic association(s) in which the subject property is located, and to any immediately adjacent civic associations, as specified in FBC Administrative Regulations 4.1.2.
 - c. When an application includes a request for a modification(s) to the REGULATING PLAN requirements, including a different placement or alignment of a new building, street or alley from what is depicted on the REGULATING PLAN, a joint meeting of a committee of the Planning Commission and the Form Based Code Advisory Working Group shall occur to review the proposed modification during the preliminary application phase in order to provide comment as to whether the proposed modification is consistent with the purposes and intent of this Code and the goals of the Columbia Pike Initiative Plan.

- d. The AWG will review the proposal and advise the Administrative Review Team as to whether it finds the preliminary application to be in compliance with this Code.
3. The Final Application may be filed at the earlier of either: a) completion of requirements in Sections II.E.2.b.i-iv; or b) completion of requirements in Section II.E.2.b.i-iii provided that the review meeting with the AWG, specified in II.E.2.b.iv, has been scheduled for a date no more than 15 days after the final application submission.

C. Final FBC Applications

1. By-Right Applications
 - a. Final By-Right FBC Applications shall be submitted to the Zoning Administrator for approval.
 - b. Final By-Right FBC Applications will be reviewed administratively for conformance with this Code within thirty (30) days of a Final Application Submission. Upon completion of such review, applicants will be notified in writing by the Zoning Administrator as to whether the submission is in compliance with the Form Based Code.
 - c. At the time of, or prior to filing, applicants shall provide copies of the application to the Columbia Pike Revitalization Organization (CPRO) and to the civic association (s) in which the subject property is located, and to any immediately adjacent civic associations, as specified in FBC Administrative Regulations 4.1.2.
 - d. Once an application is approved by the Zoning Administrator, the applicant may apply for construction permits consistent with the approved application. Applications that the Zoning Administrator determines do not comply with the requirements of this Code may be resubmitted for review as a revised application, or as a request for approval of a use permit, as set forth in ACZO §15.4 and Section II.E.3.b.
2. Special Exception Use Permit Applications
 - a. Unless the Zoning Administrator determines that it is in the public interest to accept a later application, a Form Based Code Use Permit application shall be filed by the final deadline for special exception applications set by the Zoning Administrator, and no less than fifty-five (55) days) before the public hearing.
 - b. At the time of, or prior to filing, applicants shall provide copies of the application to the Columbia Pike Revitalization Organization (CPRO) and to the civic association(s) in which the subject property is located, and to any immediately adjacent civic associations, as specified in FBC Administrative Regulations 4.1.2.
 - c. The County Board shall approve the DEVELOPMENT PROJECT if it finds that the DEVELOPMENT PROJECT meets the standards of this Code as modified by the County Board in accordance with this Code, and meets the standards set forth in ACZO §15.4.3.
 - d. In approving a FBC use permit, the County Board may designate such conditions in connection therewith as will, in its opinion, assure that the use will conform to the requirements of this Code and that such DEVELOPMENT PROJECT will continue to do so.

D. Review by Historical Affairs and Landmark Review Board (HALRB)

DEVELOPMENT PROJECTS with buildings designated as HISTORIC STRUCTURES or HISTORIC FACADES shall be subject to review and approval of a Certificate of Appropriateness (CoA) by the HALRB, as follows:

1. As part of the preliminary application phase, an applicant shall submit its DEVELOPMENT PROJECT to the HALRB for two meetings (or more, if necessary) for review and comment (HALRB and/or DRC meetings in one month shall count as one meeting). The HALRB, and/or its Design Review Committee (DRC), shall review the DEVELOPMENT PROJECT to assess whether the application complies with Section III.6. Historic Preservation and ACZO §15.7.9.F.

2. Upon completion of its preliminary review, the HALRB will provide, in writing, its comments to the applicants stating how the DEVELOPMENT PROJECT does or does not comply with Section III.6. Historic Preservation and ACZO §15.7.9.F.
3. The applicant shall address the HALRB comments and return to the HALRB for one additional meeting for final review and comment.
4. HALRB shall approve a CoA for the DEVELOPMENT PROJECT where it finds the DEVELOPMENT PROJECT meets the intent and regulations of Section III.6. Historic Preservation and ACZO §15.7.9.F.

E. Preservation of HISTORIC STRUCTURES and HISTORIC FACADES

HISTORIC STRUCTURES and HISTORIC FACADES shall be preserved by either:

1. A preservation easement on the structure or façade and recorded for the benefit of Arlington County or the Northern Virginia Conservation Trust; or,
2. The site can be designated as a local historic district by the Arlington County Board.

F. Subdivision and Building Permits

1. The applicant shall not pursue development permits until such time that either a Letter of Approval by the Zoning Administrator or a Use Permit approval by the County Board has been obtained.
2. All development shall be consistent with the approved FBC DEVELOPMENT PROJECT.
3. Administratively-approved FBC applications, approved after September 24, 2016, will expire in 3 years from the date of the Zoning Administrator’s Letter of Approval unless a Footing to Grade permit has been issued; however, the Zoning Administrator may extend the approval up to 3 years for a total of up to 6 years if he/she finds that the applicant has been actively working in good faith to pursue the Footing to Grade permit.

G. Major and Minor FBC Use Permit Amendments

1. Major FBC Use Permit Amendments: Any modification of the approved use permit which meets one or more of the following criteria is considered a major amendment and will require approval by the County Board:
 - a. Change to the principal use of the building in more than five percent of the total floor area of the building;
 - b. Change to the overall building height by more than 12 feet;
 - c. Change to the gross floor area of the ground story by more than 20 percent of the area of the ground story; or
 - d. Any change which the Zoning Administrator determines is similar in significance to the above stated changes, including but not limited to, changes to materials, design, or appearance of the building from the original approval.
2. Minor FBC Use Permit Amendments: Any modification of the approved use permit that meets either of the following criteria is considered a minor amendment and will require approval by the County Board:
 - a. Any modification of the approved DEVELOPMENT PROJECT which is not considered a major amendment and which cannot be approved administratively;
 - b. The subdivision of land involved in an approved DEVELOPMENT PROJECT, except that, if the following criteria are met, such subdivision may be approved as an administrative change by the Zoning Administrator:
 - (i) Uses and building form is consistent with the zoning and approved use permit;
 - (ii) Parking is consistent with the zoning and the approved use permit;
 - (iii) Public improvements are consistent with the zoning and approved use permit; and

(iv) Clear evidence exists that all conditions of the approved use permit have been met or are bonded in a manner acceptable to the County Manager.

3. Processes for Major/Minor Amendments

- a. When a major or minor use permit amendment is filed, the Zoning Administrator shall notify the applicant, as required in FBC Administrative Regulation 4.1.2, of the scheduled date of the County Board public hearing, which date will be up to 180 days after filing. Public hearings shall be the first regularly scheduled County Board meeting of each month, except the County Board may establish, on its own motion, another County Board meeting for the hearing.
- b. When either a major or minor use permit amendment is filed, the Administrative Review Team and the FBC AWG shall review the preliminary application consistent with Section II.E.2.a-b.
- c. After the Zoning Administrator has determined that the applicant has met the requirements of Section II.E.2.b, the application may be considered at a public hearing by the County Board on no less than 55 days after the AWG review meeting.
- d. The County Board shall approve an amendment only if it finds, after a duly advertised hearing, that the DEVELOPMENT PROJECT will not 1) adversely affect the health or safety or persons residing or working in the neighborhood of the proposed use; nor 2) be detrimental to the public welfare or injurious to the property or improvements in the neighborhood; nor 3) be in conflict with the purposes of the master plans of the County.
- e. In approving a major or minor FBC use permit amendment, the County Board may designate such conditions in connection therewith as will, in its opinion, assure that the use will conform to the requirements of this Code and that such DEVELOPMENT PROJECT will continue to do so.

4. FBC Administrative Changes: Any minor adjustment to the approved DEVELOPMENT PROJECT elements below, and any other change that the Zoning Administrator determines is similar in significance and complies with the spirit of this Code, the Arlington County Zoning Ordinance, the intent of the County Board or the Zoning Administrator in its approval of the DEVELOPMENT PROJECT, and the general purpose of the Comprehensive Plan for the development of the area, may be approved by the Zoning Administrator:

- a. Facade elevations, fenestration, and/or clear heights or story heights to address changes to the interior layout of the building;
- b. Ground story finished floor elevations to address conflicts with site topography; or
- c. On a limited basis, substitute comparable or better façade materials.

206. FBC Administrative Review Team Duties & Procedures

The Administrative Review Team is comprised of staff from several County Departments who are responsible to assist the Zoning Administrator in administering the Form Based Code.

- A. The Administrative Review Team shall review both By-Right and Special Exception Use Permit FBC applications for compliance with this Code. The Administrative Review Team shall administer the Administrative Regulations 4.1.2 which describe the review processes and submission requirements in further detail. The Administrative Review Team shall forward its recommendations regarding compliance or noncompliance to the Zoning Administrator for By-Right applications or the County Board, for Special Exception Use Permit applications. Development Projects that include renovation of existing buildings shall submit plans and documentation indicating the location and condition of existing buildings and proposed renovation and/or other improvements.
- B. In addition, the Administrative Review Team may be called upon as set forth in this Code or as requested by the Zoning Administrator to provide recommendations on interpretation of this Code. However, the Zoning Administrator is responsible for any final action taken under this Code on By-Right applications.