

KRS 100 &
BEYOND

ZONING
DECISIONS &
PROCESSES IN
KY

Alisa Duffey Rogers, AICP



LEADING THROUGH
the next 100 years

AGENDA

Planning & Zoning Connection
Authority to Use Zoning
Types of Development Decisions
Procedures for Development Applications
Concluding Comments & Questions



PLANNING & ZONING CONNECTION

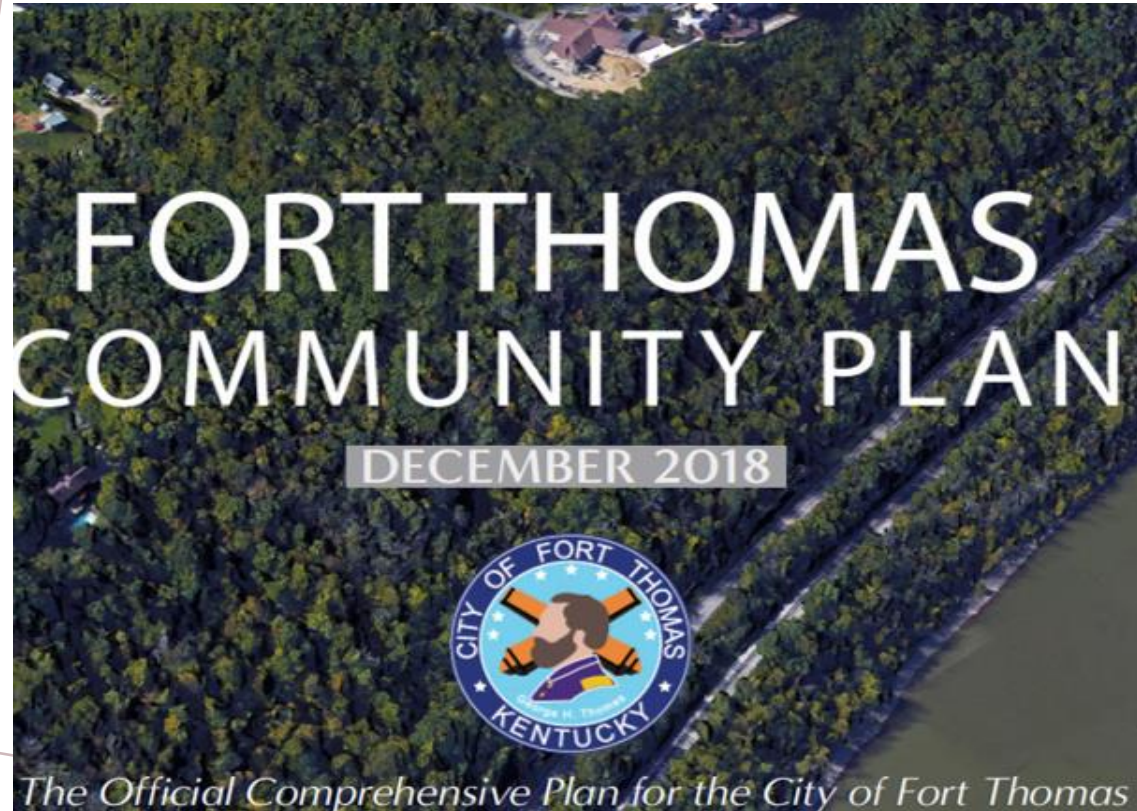


COMPREHENSIVE PLAN REQUIRED.

- The planning commission of each unit shall prepare a comprehensive plan, which shall serve as a guide for public and private actions and decisions to assure the development of public and private property in the most appropriate relationships.

KRS 100.183

ZONING IMPLEMENTS THE COMPREHENSIVE PLAN



AUTHORITY TO USE ZONING



AUTHORITY TO USE ZONING

VILLAGE OF EUCLID, OHIO V. AMBLER REALTY CO., 272 U.S. 365 (1926)

- Established the principle and practice of zoning in the U.S
- Confirmed zoning as a legitimate police power of municipalities

KRS 100

- Power to regulate land use is derived from the authority of the legislature
- Adopted in 1966; Amended extensively in 1980s
- Based on 1926 US Dept. of Commerce Standard State Zoning Enabling Act
- Zoning ordinances must be consistent with KRS 100

LIMITATIONS ON ZONING

FEDERAL

- US Constitution:
 - Typically, 1st Amendment Cases
 - Proportionality & nexus of requirements (Nollan-Dolan & Koontz tests)
- RLUIPA (Religious Land Use And Institutionalized Persons Act)

KRS 100

- Residential Care Facilities

TYPES OF DEVELOPMENT DECISIONS



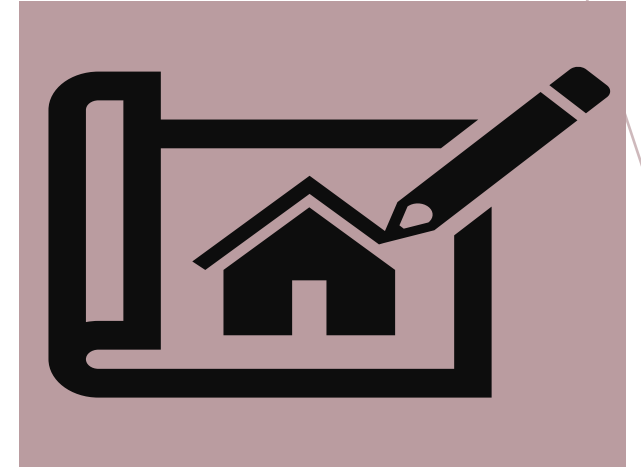
TYPES OF DEVELOPMENT DECISIONS



Legislative



Quasi-judicial



Administrative
or Ministerial

TYPES OF DEVELOPMENT DECISIONS

LEGISLATIVE

- City Council
- Planning Commission has a recommending role in some Legislative decisions

QUASI-JUDICIAL

- Board of Adjustment
- Design Review Board
- Planning Commission

ADMINISTRATIVE

- Planning Commission
- Staff

TYPES OF DEVELOPMENT DECISIONS

QUASI-JUDICIAL

BOARD OF ADJUSTMENT

- Variances
- Appeals
- Conditional Use Certificates

DESIGN REVIEW BOARD

- Certificate of Appropriateness
- Modifications from Design Standards

PLANNING COMMISSION

- Development Plan with Waivers

TYPES OF DEVELOPMENT DECISIONS

LEGISLATIVE

- City Council
 - Adoption of Zoning & Subdivision Ordinances
 - Zoning Text Amendments
 - Zoning Map Amendments
- Planning Commission
 - Recommendations regarding:
 - › Adoption of Zoning & Subdivision Ordinance
 - › Zoning Text Amendments
 - › Zoning Map Amendments

TYPES OF DEVELOPMENT DECISIONS

ADMINISTRATIVE/MINISTERIAL

PLANNING COMMISSION

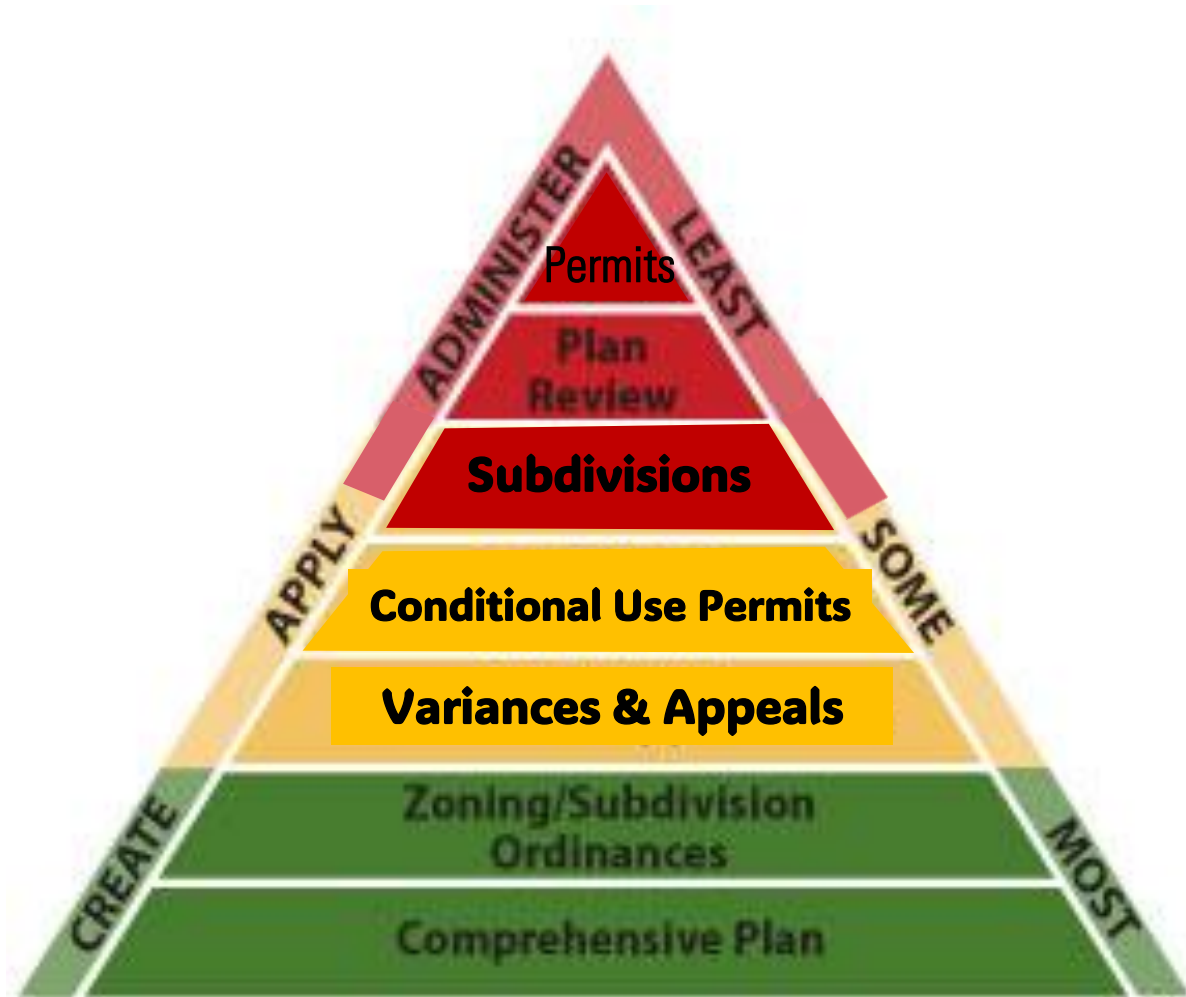
- Stage I Development Plan Review
- Subdivision Plat Review

STAFF

- Stage II Development Plan Review
- Zoning Permits
- Certificates of Zoning Compliance

DEVELOPMENT DECISIONS

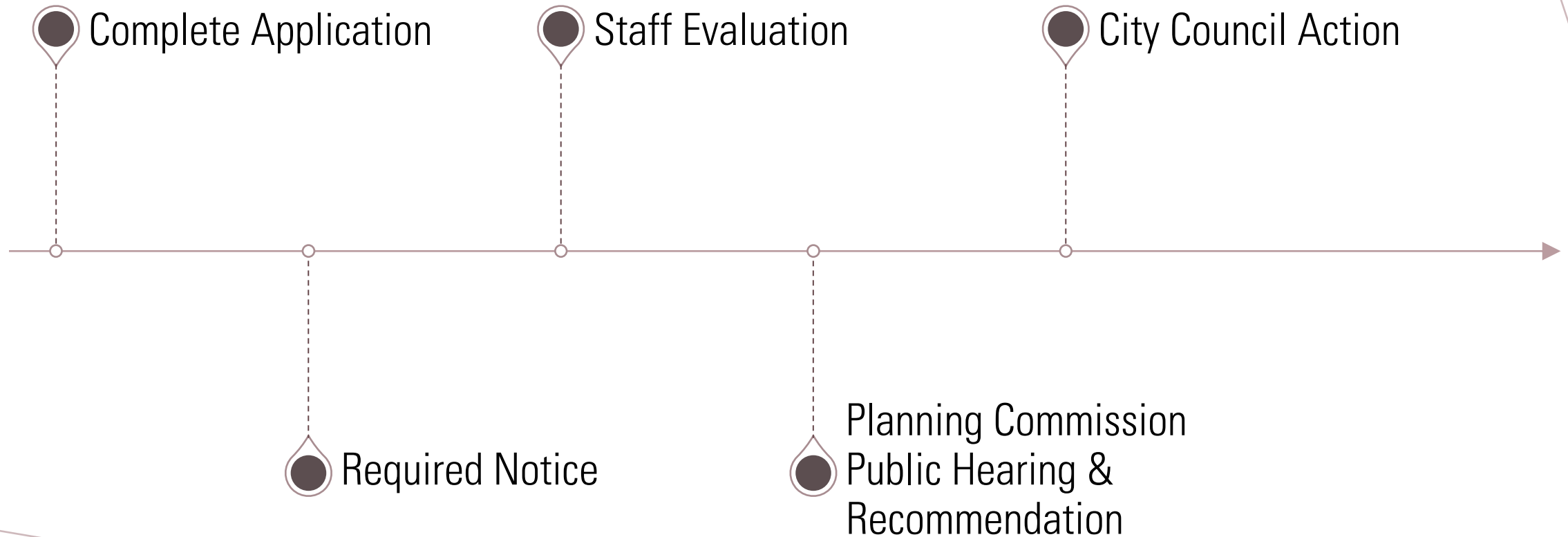
PYRAMID OF DISCRETION



*PROCEDURES
FOR
DEVELOPMENT
APPLICATIONS*



LEGISLATIVE – ZONING MAP AMENDMENT



ZONING MAP AMENDMENT – PLANNING COMMISSION ROLE

PUBLIC HEARING

- Testimony & evidence heard from proponents & opponents of proposed Map Amendment

RECOMMENDATION

- Findings of Fact
- Summary of the evidence and testimony presented by the proponents and opponents of the proposed amendment must accompany Recommendation & Findings of Fact

ZONING MAP AMENDMENT – PLANNING COMMISSION ROLE

FINDINGS OF FACT – KRS 213

Before any map amendment is granted, the planning commission or the legislative body must find that the map amendment is in agreement with the adopted comprehensive plan, **or, in the absence of such a finding, that one (1) or more of the following apply and such finding shall be recorded in the minutes and records of the planning commission or the legislative body:**

- That the existing zoning classification given to the property is inappropriate and that the proposed zoning classification is appropriate;
- That there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of such area.

ZONING MAP AMENDMENT – PLANNING COMMISSION ROLE

FINDING OF FACTS

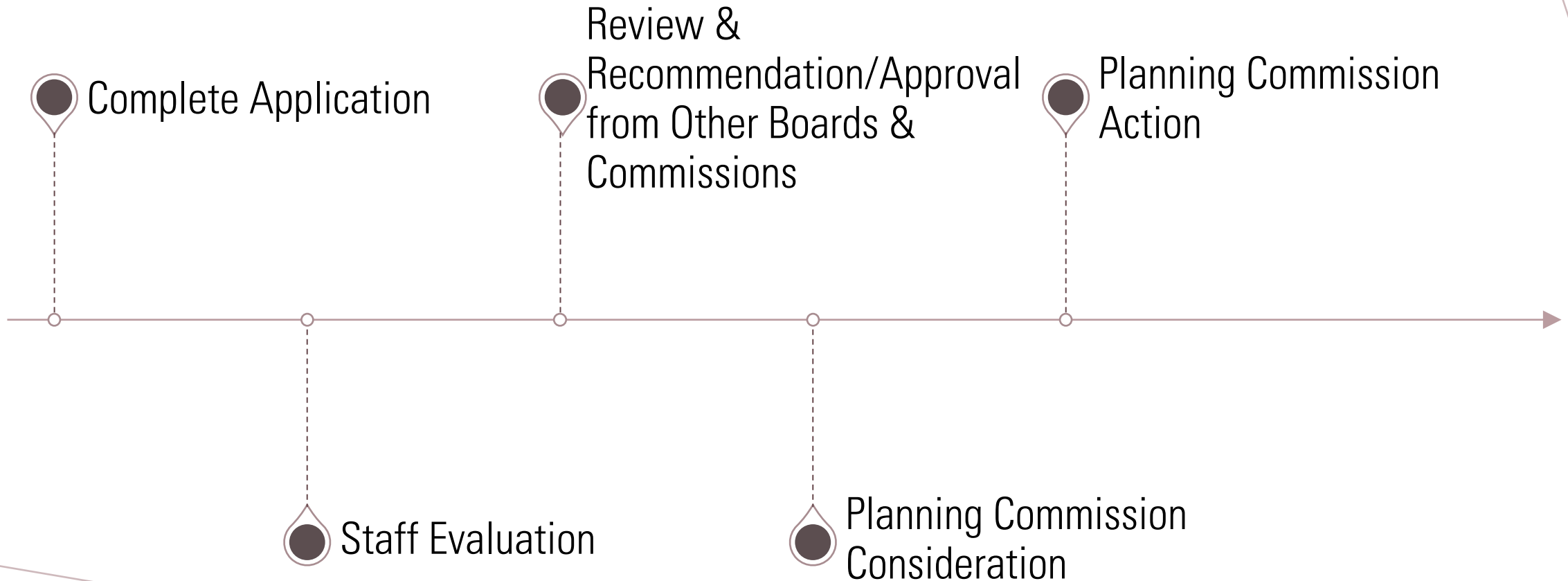
- Are a statement of the evidence and reasoning used by the Commission to arrive at a decision
- Must be supported by facts
- Are a “road map” that details the Commission’s reasoning process used to progress from evidence to decision
- Typically include:
 - Description of the application
 - Reasons for recommending approval or denial

ZONING MAP AMENDMENT – PLANNING COMMISSION ROLE

FINDING OF FACTS - SHOULD DO THE FOLLOWING:

- Set out the relevant facts from the evidence presented
- Relate these facts to KRS 100.213
- State whether Findings from KRS 100.213 are met or not by the identified facts and evidence
- State recommendation

ADMINISTRATIVE DECISION – DEVELOPMENT PLAN REVIEW



ADMINISTRATIVE DECISION – DEVELOPMENT PLAN REVIEW

PLANNING COMMISSION CONSIDERATION

- Meet ALL relevant standards in Ordinance
- Only applicable standards are used to evaluate the application

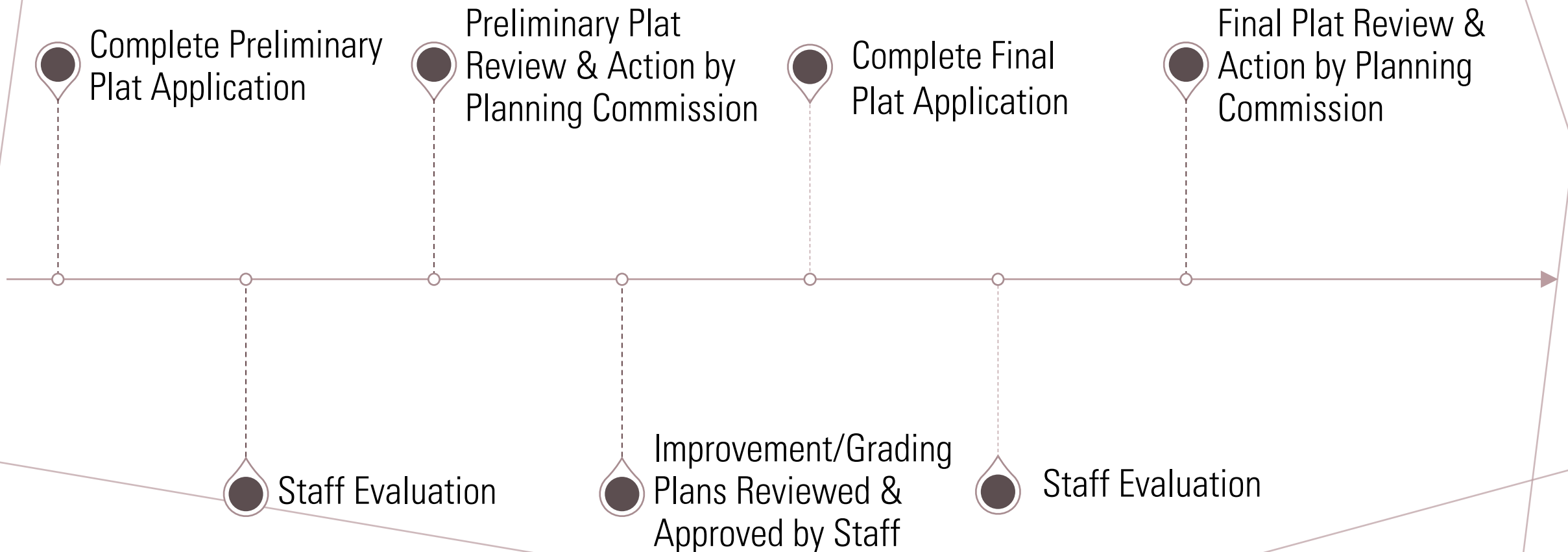
PLANNING COMMISSION ACTION

- Approve
- Approve with Conditions
 - › Conditions must be:
 - Connected to Ordinance standard **OR** voluntarily provided by applicant
 - Reasonable
 - Proportional
- Deny only if application fails to meet Ordinance standard(s)

TYPICAL COMPLETE ADMINISTRATIVE DEVELOPMENT PROCESS

- 1 Development Plan Approval by Planning Commission
- 2 Zoning Administrator Issues Zoning Permit
- 3 Building Permit, if applicable
- 4 Site Inspection by Zoning Administrator for Compliance with Development Approvals
- 5 Zoning Administrator issues Certificate of Zoning Compliance

ADMINISTRATIVE DECISION – SUBDIVISION PLAT REVIEW



ADMINISTRATIVE DECISION – SUBDIVISION PLAT REVIEW

PLANNING COMMISSION CONSIDERATION

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PLANNING COMMISSION ACTION

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 - OR** voluntarily provided by applicant
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- Deny only if application fails to meet Ordinance standard(s)

QUASI-JUDICIAL – DEVELOPMENT PLAN WITH WAIVERS

PLANNING COMMISSION

- Findings of Fact required and must:
 - › Set out the relevant facts from the evidence and discussion
 - › Relate these facts to the conditions that must be demonstrated
 - › State whether the relevant condition has been shown to be met or not met by the identified facts
 - › State whether the waiver is granted, granted with conditions, or denied based on the information in the record

DEVELOPMENT PROCESSES IN SUMMARY

- Ensure process & action matches decision type
- Carefully consider type of decision when making motions
- Document motions and establish record as required by decision type
- Remember - It Depends!



THANK YOU

Alisa Duffey Rogers, AICP

aduffeyrogers@ctconsultants.com

919-930-2860



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