
CHAPTER IX: ADMINISTRATION AND PROCEDURES

9.1 ZONING PERMITS

9.1.1 Zoning Permits Required. No building or structure shall be erected, reconstructed or structurally altered to increase the exterior dimensions, height, floor area, number of dwelling units or to accommodate a change in use of the building and/or premises until a Zoning Permit has been issued by the Administrator. The Zoning Permit shall state that the proposed construction complies with all provisions of this ordinance and no subsequent modifications shall be made to plans or to actual construction that would violate this ordinance. Building and structures less than 100 square feet in size and having no permanent attachment to the underlying land (such as posts or footings) are exempt from this Permit requirement but must meet applicable setback requirements.
(Amended 5/18/09-Ord 2009-08)

9.1.2 Adequate Public Facilities Required. Land proposed for development shall be served by public facilities and services which are adequate to support the proposed development. Land shall not be approved for development unless and until adequate public facilities exist or provision has been made for the following essential public facilities: water service, wastewater treatment and disposal, stormwater management, electrical service, telecommunications service and streets.

- A. **Master Plan Consistency Required.** Proposed public improvements shall conform to and be properly related to the Master Plan and applicable capital improvements plans.
- B. **Water.** All habitable buildings and buildable lots shall be connected to an approved well or public water system which is capable of providing safe drinking water.
- C. **Wastewater.** All habitable buildings and buildable lots shall be served by an approved means of wastewater collection and treatment.
- D. **Stormwater Management.** Drainage improvements shall accommodate potential runoff from the entire upstream drainage area and shall be designed to prevent increases in peaks or velocity of downstream flooding. The County may require the use of control methods such as retention or detention, and/or the construction of off-site drainage improvements to mitigate the impacts of the proposed development.
- E. **Streets and Sidewalks.** Proposed streets shall provide a safe, convenient and functional system for vehicular, pedestrian and bicycle circulation, shall be properly related to the Master Plan, and shall be appropriate for the particular traffic characteristics of each proposed development.
- F. **Extension Policies.** All public improvements and required easements shall be extended through the parcel on which new development is proposed. Streets, water lines, wastewater systems, drainage facilities, electric lines and

telecommunications lines shall be constructed through new development to promote the logical extension of public infrastructure. The County may require the applicant of a subdivision to extend off-site improvements to reach the subdivision or oversize required public facilities to serve anticipated future development as a condition of approval.

9.1.3 Occupancy Compliance Certificate. Subsequent to the effective date of this ordinance, no change in the use or occupancy of land or building shall be made, nor shall any new dwelling or principal structure be occupied until an Occupancy Compliance Certificate has been issued by the Administrator. Every Occupancy Compliance Certificate shall state that the new occupancy complies with all provisions of this ordinance and no subsequent modifications shall be made to the occupancy, use or method of operation that would violate this ordinance. Occupancy shall be considered the use of a building for its intended purpose or the act of living in a dwelling. Evidence of living in a dwelling may include receipt of mail and packages, phone or data service connection, vehicles parked overnight on the property. Failure to obtain an Occupancy Compliance Certificate prior to occupancy of the dwelling or structure is a violation of this Ordinance and subject to the penalties contained in Chapter X herein. (Amended 2/2/09-Ord 2009-01)

9.2 RESPONSIBILITIES FOR ZONING ORDINANCE ADMINISTRATION

9.2.1 Administrator. The Clinton County Zoning Administrative Officer, hereinafter referred to as "the Administrator," or his/her designee, shall have the responsibility and authority to:

- A. Serve as staff for the Board of Supervisors, Planning & Zoning Commission, and the Board of Adjustment;
- B. Review and render interpretations to all provisions of the Master Plan and Future Land Use Map;
- C. Review and render interpretations to all provisions of the Code and Official Zoning Map;
- D. Recommend any Master Plan or Future Land Use Map amendments;
- E. Recommend any necessary amendments to the Zoning Ordinance or Official Zoning Map;
- F. Accept applications for, review and prepare staff reports describing the proposed development and listing initial findings regarding compliance with this ordinance for the following: text amendments to the Master Plan, amendments to the Future Land Use Map, amendments to the text of the Zoning Ordinance, amendments to the Official Zoning Map, variances, special exceptions, planned developments, and right-of-way and easement vacations. (Amended 1/16/02-Ord 2002-02)



- G. Review and approve, approve with conditions or deny applications for all applications for certificates and permits, and ensure compliance with conditions of a development permit.
- H. Act as a liaison to other agencies and organizations in land use matters.
- I. Facilitate the creation and adoption of special area plans, corridor plan and neighborhood plans.
- J. Monitor and assist in the enforcement of the Zoning Ordinance.
- K. Review all flood plain development permit applications to assure that the provisions of this Ordinance will be satisfied.
- L. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this Ordinance.

9.2.2 Planning & Zoning Commission. The Planning & Zoning Commission for Clinton County shall consist of five members who shall be residents of the County. The Administrator and/or appointed representative(s) shall serve as staff to the Commission.

- A. Membership.** The members of the Clinton County Planning & Zoning Commission shall be appointed by the Board of Supervisors. All vacancies on the Commission will also be made by the Board of Supervisors.
- B. Residency.** The members of the Planning & Zoning Commission must be residents and taxpayers in the County, a majority of which shall reside outside the corporate limits of any city. See IC 335.8.
- C. Terms and Reimbursement.**
 - 1. **Term of Office.** Members of the Commission shall serve five (5) year terms. The terms shall be arranged so that no more than one will expire each year.
 - 2. **Removal from the Board.** Members of the Commission may be removed after public hearing by the Board of Supervisors for inefficiency, neglect of duty or malfeasance in office.
 - 3. **Vacancies.** Vacancies must be filled for the unexpired term of any member appointed whose term becomes vacant.
 - 4. **Reimbursement.** All members of the Commission shall serve without compensation except for such amounts determined appropriate by the Board of Supervisors to offset expenses incurred in the performance of their duties.



D. Functions.

1. **Rules of Procedure.** The Planning & Zoning Commission shall adopt rules of procedure consistent with the provisions of these regulations.
2. **Chair Administers Oath.** The chair, or in the absence of the chair, the vice-chair, may administer oaths and compel attendance of witnesses.
3. **Meetings.**
 - a. All public meetings of the Planning & Zoning Commission shall be open to the public.
 - b. The Planning & Zoning Commission shall meet as necessary for the transaction of business.
4. **Minutes.**
 - a. The Planning & Zoning Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions.
 - b. The minutes shall be filed immediately in the office of the Administrator and shall be public record.

E. Planning & Zoning Commission Powers and Duties. The Planning & Zoning Commission's powers and duties include, but are not limited to: (Amended 1/16/02-Ord 2002-02)

1. Review and recommend action on all requests for amendments to the Master Plan and Future Land Use Map.
2. Review and recommend action on all requests for amendments to the zoning map.
3. Review and recommend action on all requests for amendments to the text of the Zoning Ordinance.
4. Review and recommend action on requests for rezoning to planned unit developments.
5. Decide all requests for variance from the provisions of the Zoning Ordinance that are not assigned to the Board of Adjustment or the Board of Supervisors.
6. Decide on all requests for approval of planned development plans.
7. Other powers and duties assigned to a Planning & Zoning Commission by state law.



9.2.3 Board of Supervisors. The Board of Supervisors shall have the zoning powers provided by law, including but not limited to the following: (Amended 1/16/02-Ord 2002-02)

- A. Appoint an Administrative Officer.
- B. Appoint members to the Planning & Zoning Commission.
- C. Appoint members to the Board of Adjustment.
- D. Decide all requests for amendments to the Master Plan and Future Land Use Map.
- E. Decide all requests for amendments to the zoning map.
- F. Decide all requests for amendment to the text of the zoning ordinance.
- G. Decide all appeals to actions of the Planning & Zoning Commission, as provided for in the zoning ordinance.
- H. Decide all requests for rezoning to planned unit development.
- I. Adopt other development manuals.
- J. Adopt fees and consider waivers to fees.
- K. Designate local historic sites, structures and districts.

9.2.4 Board of Adjustment The Zoning Board of Adjustment shall have the supervisory and appellate powers provided by law.

- A. Membership.** The members of the Board of Adjustment shall be appointed by the Board of Supervisors.
- B. Number.** The Board of Adjustment shall consist of five (5) members.
- C. Residency.** The members of the Board of Adjustment must be residents and taxpayers in the County, a majority of whom shall reside outside the corporate limits of any city (IC 335.11)
- D. Terms and Reimbursement**
 - 1. **Term of office.** The terms of the members of the Board of Adjustment shall be five (5) years or until their successors take office. The terms shall be arranged so that no more than one will expire each year.
 - 2. **Removal from the Board.** Members may be removed after a public hearing for inefficiency, neglect of duty or malfeasance of office.
 - 3. **Vacancies.** Vacancies must be filled for the unexpired term of any member appointed whose term becomes vacant.
 - 4. **Reimbursement.** All members shall serve without compensation except for such amounts determined appropriate by the Board of Supervisors to offset expenses incurred in the performance of their duties.



E. Functions.

1. **Rules of Procedure.** The Board of Adjustment shall adopt rules of procedure consistent with the provisions of these regulations.
2. **Chair Administers Oath.** The chair, or in the absence of the chair, the vice-chair, shall administer oaths and compel attendance of witnesses.
3. **Meetings.**
 - a. All public meetings of the Board of Adjustment shall be open to the public.
 - b. The Board of Adjustment shall meet as necessary for the transaction of business.
 - c. A public hearing by the Board of Adjustment must be held within 60 days after the filing of an application.
4. **Notice of Meetings:**
 - a. Notice of the Board of Adjustment's public hearing must be sent by mail at least ten days before the hearing to:
 - (1) the applicant;
 - (2) Each owner of real property within 500 feet of the property in question; and
 - (3) Any advisory board which has been established for the affected area by the Board of Supervisors.
 - b. Notice of public hearings of the ZBA shall be given in at least one (1) newspaper of general circulation in the County not less than four (4) nor more than twenty (20) days prior to the meeting.(Amended 10/06/2014 - Ord #2014-02)
 - c. Property owner means that owner shown in the record of the County Assessor.
5. **Contents of Notice.** The notice of the meetings of the ZBA shall be in language which is easy to understand. The notice shall include the following:
 - a. the time and place of the meeting;
 - b. the purpose of the meeting;
 - c. a physical description of the property.



6. **Minutes.**

- a. The ZBA shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions.
- b. The minutes shall be filed immediately in the office of the Administrator and shall be public record.

F. **Board of Adjustment Powers and Duties.** The Board of Adjustment shall have the power and duty to:

1. Interpret the zoning ordinance when the meaning of any word or phrase of a section is in doubt, when there is dispute as to such meaning between the appellant and the enforcing officer, or when the location of a zone boundary is in doubt.
2. Allow a variance from the terms of the Ordinance when, owing to peculiar conditions, a strict interpretation would work an unnecessary hardship, if in granting such variance the general intent and purpose of the zoning ordinance will be preserved.
3. Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of the County zoning regulations.
4. Allow a reduction of building site area and yard requirements where, in its judgment, the shape of the building site, topography, the location of existing buildings or other conditions make a strict compliance with said regulations impossible without practical difficulty or hardship; but in no case, except as hereinafter provided, shall these regulations be reduced in such a manner as to violate the intent and purpose of this ordinance.
5. Hear and decide on Special Exception Use Permit requests.

G. **Board of Adjustment Action.** The concurring vote of three (3) members of the ZBA is necessary to reverse any order, requirement, decision or determination of any administrative official or agency, or to decide in favor of the applicant.

9.3 PROCEDURES

9.3.1 General Procedures.

A. Published Notice.

1. Except as otherwise provided in this ordinance, in any instance in which a public hearing is required, a notice setting forth the date, time, place and purpose of such hearing, the name of the applicant, and identification of the



subject property must be published once not less than four (4) nor more than twenty (20) days prior to the hearing in a newspaper of general circulation throughout the County. (Amended 10/06/2014 - Ord 2014-02)

2. In computing the time, both the day of the publication and the day of the hearing shall be included.
3. Not fewer than 20 days prior to the public hearing, the applicant shall provide the information required for the notice to the Zoning Official who shall be responsible for preparing the notice for publication.

B. Types of Notice.

1. **Personal Notice of Public Hearing.**
 - a. Whenever personal notice of a public hearing is required by these Regulations to be sent to the owners of land located within 500 feet of the property. Notice shall be sent by the Administrator at the applicant's cost by U.S. mail at least 10 business days before the hearing to each current owner of real property, as listed in the official records of the Clinton County Assessor.
 - b. Not fewer than 20 days prior to the public hearing, the applicant shall provide the information required for the personal notice, including a list of the property owners to be notified.
 - c. The responsibility for personal notice to all surrounding landowners lies solely with the applicant for development approval.
 - d. Personal notice shall be in letter form stating the date, time and place of the hearing, a general description of the proposal, the location of the property which is the subject of the hearing and other such requirements as further specified in these Regulations. The mailed notice must also include a statement explaining that members of the public may be heard at the public hearing.
 - e. The failure of a property owner to receive notice by mail, if timely sent and properly addressed to the current owner of record, shall not be grounds for invalidating any action taken by the responsible decision-making body.
2. **Posted Notice.** When required by these Regulations, the applicant shall post 24" x 24" signs, provided by the Administrator, giving notice of the date, time and place of the hearing and of the action requested. The applicant shall post at least one sign on the subject property at least 10 days prior to the hearing in conspicuous places visible from every street along the frontage of the subject property. The sign(s) shall remain posted on the property until after the close of the public hearing.



3. **Notice of Final Determination.** Within 10 days of the date of a final determination on the development application, written notification of the decision shall be mailed to the applicant, stating the action taken and including all conditions imposed and times established for satisfaction of such conditions, if any. If the final decision-maker denies the application, a written statement setting forth the basis for the decision to deny the application shall be included.
- C. **Substantial Compliance Required.** Notice shall be deemed to be complete where there is substantial compliance with the requirements of this section. Minor technical deviations in the language of published, personal or posted notice shall not be deemed to impair the notice where actual notice has been given. The requirement for the number of days of notice, for the general types of notices and for specifying the time, date and place of a hearing and the general location of the property shall be strictly construed; where there is a question raised at the hearing regarding the adequacy of notice, the decision-making body shall make a formal finding as to whether there was substantial compliance with the notice requirement of this ordinance.
 - D. **Notification of Appeal or Revocation.** Whenever an appeal is taken from a final decision, or whenever the County determines to revoke a development permit which was obtained following a public hearing, personal notice of the appeal or revocation shall be prepared and made in the manner prescribed by this Section. If no public hearing was held prior to obtaining the development permit, personal notice of revocation shall be given only to the holder of the permit.
 - E. **Costs of Notice.** All actual costs incurred by the County in preparing and publishing the notice required by these Regulations shall be paid by the applicant prior to providing such notice according to a schedule of fees established by the Board of Supervisors.
 - F. **Public Hearing Procedures.**
 1. **Setting of the Hearing.** When the Administrator determines that a permit application is complete and that a public hearing is required by these Regulations, the Administrator shall select a place, date and a time certain for the required hearing, and shall cause notice of such hearing to be prepared and made pursuant to Section 9.3.1-A.
 2. **Purpose of Hearing.** The purpose of a public hearing is to allow the applicant and all other interested parties a reasonable and fair opportunity to be heard, to present evidence relevant to the application, and to rebut evidence presented by others.
 3. **Conduct of Hearing.**
 - a. Any person or persons may appear at a public hearing and submit evidence, either individually or as a representative of an organization. Each person who appears at a public hearing shall state, for the record,



his or her name, address, and if appearing on behalf of an organization, the name and mailing address of the organization.

- b. The body conducting the hearing shall exclude testimony or evidence that it finds to be irrelevant, immaterial or unduly repetitious. At the chair's discretion, any person appearing as a witness may ask relevant questions of other persons appearing as witnesses, but shall do so only through the chair of the body conducting the hearing. At any point, members of the body conducting the hearing may ask questions of the applicant, staff or public. The order of proceedings shall be as follows:
 - (1) The Administrator shall present a description of the proposed development and preliminary findings regarding compliance with this ordinance;
 - (2) The applicant shall present any information that the applicant deems appropriate;
 - (3) Public testimony shall be heard first in favor of the proposal, then in opposition to it;
 - (4) The Administrator or other staff member may respond to any statement made by the applicant or any public comment;
 - (5) The applicant may respond to any testimony or evidence presented by the staff or public; and
 - (6) The body conducting the hearing shall close the public portion of the hearing and conduct deliberations.

4. **Record of Proceedings.**

- a. The body conducting the hearing shall record the proceedings by any appropriate means and according to such procedures as the Board of Supervisors may, from time to time, prescribe by rule. Such record shall be provided at the request of any person upon application to the County Auditor and payment of a fee set by the Board of Supervisors to cover the cost of duplication of the record.
- b. The tapes of all proceedings, including testimony and statements of personal opinions, the minutes of the secretary, all applications, exhibits and papers submitted, all staff and advisory body or commission reports and recommendations, and the decision and report(s) of the body before which the hearing is heard shall constitute the record.
- c. All such records shall be public records, open for inspection at reasonable times and upon reasonable notice.

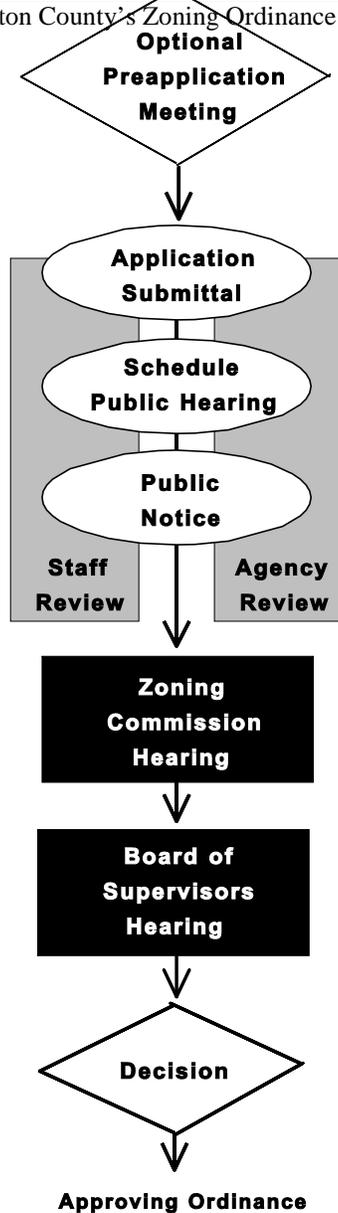


5. **Continuance of Proceedings.**

- a. Any applicant or authorized agent of an applicant shall have the right to one continuance before the Planning & Zoning Commission, Board of Adjustment or Board of Supervisors, provided that a written request is filed with the Administrator.
- b. An applicant requesting a continuance shall make reasonable efforts, through personal notice, to notify all persons previously advised of the application and hearing that a continuance has been requested. The applicant (at his/her cost) shall also cause written notice of the rescheduled public hearing date to be sent to surrounding property owners in the same manner as for the original meeting.
- c. The Planning & Zoning Commission, Board of Adjustment or Board of Supervisors may grant a continuance at any time for good cause shown. All motions to grant a continuance shall state the date on which the matter is to be heard. A majority vote of those members in attendance shall be required to grant a continuance.
 - (1) The record shall indicate the reason such continuance was made and any stipulations or conditions placed upon the continuance.
 - (2) If the Planning & Zoning Commission, Board of Adjustment or Board of Supervisors, continues a public hearing on its own motion, it may direct the Administrator to renotify property owners as required in the first instance.
 - (3) If the continuance of a public hearing is made at the request of an applicant, the Planning & Zoning Commission, Board of Adjustment or Board of Supervisors may direct the applicant to renotify property owners as required in the first instance.

G. Post Decision Procedures.

1. **Appeals from Final Decision-Maker.** Any appeal to a final action by the Board of Supervisors, Planning & Zoning Commission or Board of Adjustment shall be filed within 30 days of the action being appealed.
2. **Appeals to Administrative Decisions.** Any person, including any officer or agency of Clinton County, aggrieved by a final administrative determination on a development permit or administrative development approval by the Administrator may appeal such final determination pursuant to Section 9.3.8 of these regulations.
3. **Amendments and Revisions to Approval.**



a. The Administrator may approve, in writing, minor revisions to the terms of approval of an application for development. Minor revisions that may be authorized are limited to those that are necessary in light of technical considerations discovered after the decision on the development application.

b. If the holder of an approved application for a development permit requests a revision that the Zoning Official determines is not a minor revision, approval of the revision by the original final decision-maker is required in accordance with the procedures established for the original approval of the subject development permit.

9.3.2 Zoning Amendments. It may be necessary or advisable, from time to time, to amend the text of the Zoning Ordinance or the Zoning Map. Exhibit 9.3.2 illustrates the steps needed to make a zoning amendment.

A. Initiation of Application. A request for change in the zoning map by anyone other than the Planning & Zoning Commission or the Board of Supervisors requires a signed petition by the owner, or by the owners of at least fifty (50) percent of the area if the property to be rezoned is owned by more than one person. Any person may request a change in the zoning ordinance text.

B. Application. An application for zoning map or text change, including payment of fee shall be filed with the Administrator. The fee shall be waived for any request initiated by the County. Before any application is made, the applicant is encouraged to confer with the

Administrator to discuss the procedures and requirements for a zoning amendment request pursuant to these Regulations.

1. **Information Required for Text Amendment.** When the applicant seeks to amend the text of these Regulations, the applicant shall complete the form provided by the Administrator which includes

a. a copy of the proposed changes to the Regulations;



- b. the reasons supporting each proposed change; and
 - c. any specific circumstances requiring the change.
2. **Information Required for Zoning Map Amendment.** When the applicant seeks a change in the zoning map, the applicant shall submit the following information:
- a. A statement of reasons why the applicant feels the present zoning classification is no longer desirable for the property and why the change is needed;
 - b. A legal description of the subject property for which the rezoning is requested;
 - c. A scaled map of the property, correlating with the legal description, and clearly showing the property's location;
 - d. The name, address, and telephone phone number of the applicant and the property owner;
 - e. A description of the present use of the property and the existing zoning district classification;
 - f. Identification of the requested new zoning classification;
 - g. The area of the property in square feet and/or acres;
 - h. A plat showing the locations, dimensions, and use of the property proposed for rezoning and all property proposed for rezoning and all property within the five hundred (500) feet thereof, including streets, alleys, railroads, and other physical features.
 - i. The proposed time schedule for development;
 - j. The source/method for providing utility/infrastructure services to the property;
 - k. A description of existing road conditions and any new roads to be included in the development and or the effect of the proposed development on existing roads and traffic conditions;
 - l. Declaration of the property's status relative to flood plain information provided by FEMA;
 - m. A list of any state, federal or other public agency approvals or permits required for the proposed development;
 - n. The effect that development of the property may have on surrounding properties;
 - o. The existing zoning districts of adjacent properties;



- p. The existing land uses on adjacent properties;
 - q. The signature(s) of the applicant(s) and owner(s) certifying the accuracy of the required information;
 - r. a copy of the recorded deed;
 - s. list of property owners within 500 feet and their addresses; and
 - t. Other information as required by the Administrator.
3. **Determination of Completeness.** Within five (5) business days of submission, the Administrator shall review the zoning amendment application and determine if the application is complete.
4. **Notice and Public Hearing.** The Planning & Zoning Commission shall hold a public hearing on each proposed zoning amendment after notice is provided in accordance with Section 9.3.1.
5. **Criteria for Review.** When the application involves a change to the Zoning Map that will only affect specific property, the Planning & Zoning Commission shall consider the following factors, as applicable to the individual application:
 - a. Whether or not the current district classification of the property to be rezoned is valid and the suitability of the subject property for the uses to which it has been restricted under the existing zoning classification.
 - b. Whether there is a need for additional land zoned for the purpose requested.
 - c. The character and zoning of nearby property.
 - d. Master Plan future land use designations.
 - e. The extent to which the proposed use will detrimentally or positively affect nearby property.
 - f. The length of time the subject property has remained vacant as zoned.
 - g. Recommendations of the County's professional staff.
 - h. The availability and adequacy of required public and community facilities, utilities and services to serve the proposed use. These may include, but are not limited to, sanitary and storm sewers, water, electrical service, police and fire protection, schools, parks and recreation facilities, roads, libraries, solid waste collection and disposal and others, as applicable.



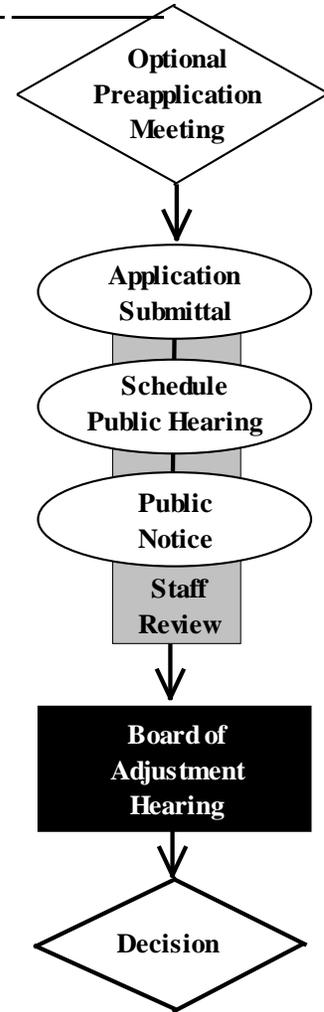
- i. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the street network influenced by the use, or present parking problems in the vicinity of the property.
 - j. The environmental impacts that the proposed use will generate including, but not limited to, excessive storm water runoff, water pollution, air pollution, noise pollution, excessive nighttime lighting, or other environmental harm.
 - k. The ability of the applicant to satisfy any requirements applicable to the specific use imposed pursuant to these Regulations and other applicable County ordinances.
6. **Report and Recommendation by Commission.** The Planning & Zoning Commission shall submit its recommendations in writing to the Board of Supervisors. The recommendation may be for approval, disapproval, or conditional approval.
7. **Amendments to Text.** When a proposed amendment would result in a change in the text of this ordinance but would not result in a change of the zoning map, the recommendation of the Planning & Zoning Commission shall describe:
 - a. Whether such change is consistent with the intent and the purpose of this ordinance and the goals and policies of the Master Plan;
 - b. Whether the change is the result of an error or omission in the original text;
 - c. The areas that are most likely to be directly affected by such change and the likely effects; and
 - d. The changes in physical, social or economic conditions or development practices that justify the proposed change.
8. **Decision by Board of Supervisors.** Within 30 days of receipt of the recommendation of the Planning & Zoning Commission and any written public input, the Board of Supervisors shall conduct a public hearing to consider the application and may approve, deny or conditionally approve the recommendation of the Planning & Zoning Commission or take such other action it deems appropriate.
9. **Approved Action.** If the Board of Supervisors approves an application, it shall adopt an ordinance amendment to effect the change. The amending ordinance shall define the change and instruct the Zoning Map or this ordinance to be changed to reflect such amendment. The ordinance and resolution shall be filed with the County Auditor and the Administrator.



9.3.3 Conditional Use. (Removed by amendment 1/16/02-Ord 2002-02)

9.3.4 Special Exception Permits. Special exception uses are those uses which generally are compatible with the permitted land uses in a given zoning district, but which require individual review of their location, design and configuration and the imposition of conditions in order to ensure the appropriateness of the use at a particular location within a given zoning district. Exhibit 9.3.4 illustrates the process to receive a special exception permit.

- A. Applicability.** The application for a use in a zoning district as a special exception does not constitute an authorization or assurance that such use will be approved.
 1. Approval of a Special Exception Permit shall be deemed to authorize only the particular use for which the permit is issued.
 2. No use authorized by a special exception permit shall be enlarged, extended, increased in intensity or relocated unless an application is made for a new special exception permit in accordance with the procedures set forth in this section.
 3. Development of the use shall not be carried out until the applicant has secured all the permits and approvals required by these regulations, other appropriate provisions of the County or any permits required by state or federal agencies.
- B. Application for Special Exception Permit.** A property owner or designated representative shall initiate a special exception request by filing an application and fee with the Administrator. Before any application is made, the applicant is encouraged to confer with the Administrator to discuss, in general, the procedures and requirements for a special exception request pursuant to these Regulations.





- C. Information Required for a Special Exception Permit.** When the applicant seeks a special exception permit, the applicant shall submit the following information:
1. The site plan prepared in accordance with Section 9.3.9. Specific requirements of the site plan may be waived by the Administrator.
 2. Evidence of the applicant's ability and intention to establish the use within one (1) year after the effective date of the permit.
 3. Reasons for the special exception permit and a description of the impacts of the proposed use on surrounding properties and infrastructure.
- D. Determination of Completeness.** Within five (5) business days of submission, the Administrator shall review the special exception application and determine if the application is complete.
- E. Notice and Public Hearing.** The Board of Adjustment, shall hold a public hearing on each proposed conditional use permit after notice has been provided in accordance with Section 9.3.1.
- F. Special Use Review Criteria.** When making its decision the Board of Adjustment shall consider whether:
1. the proposed use at the specified location is consistent with the policies embodied in the adopted Master Plan;
 2. the proposed use is consistent with the general purpose and intent of the applicable zoning district regulations and complies with the requirements of the zoning ordinance;
 3. the proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity;
 4. the proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and includes improvements or modifications either on-site or within the public rights-of-way to mitigate development related adverse impacts, such as traffic, noise, odors, visual nuisances, or other similar adverse effects to adjacent development and neighborhoods. These improvements or modifications may include, but shall not be limited to, the placement or orientation of buildings and entryways, parking areas, buffer yards, and the addition of landscaping, walls or both, to ameliorate such impacts; and



5. the proposed use does not generate pedestrian and vehicular traffic which will be hazardous to the existing and anticipated traffic in the neighborhood.

G. Special Exception Approval

1. After the public hearing, the Board of Adjustment shall approve, conditionally approve or deny the special exception application.
2. The Board shall record the reasons for its actions in the record.
3. In conditionally approving a special exception application, the Board may impose such conditions, safeguards and restrictions upon the premises or permittees benefitted by the special exception as may be necessary to reduce or minimize any potentially injurious effect of such special exception upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations.

H. Special Exception Permit Issuance

1. The Board of Adjustment shall authorize the Administrator to issue a special exception permit for any special exception it approves or conditionally approves.
2. The special exception permit shall set out regulations, restrictions, limitations and termination date so that reasonable control may be exercised over the use.
3. Additionally, upon approval by the Board, the Administrator shall forward a letter of approval to the applicant.

I. Revocation of a Special Exception Permit

1. Any special exception permit granted under the authority of this chapter is subject to revocation for any or all of the following reasons:
 - a. Non-compliance with any special conditions imposed by the Board of Adjustment or the zoning regulations at the time of approval of the special exception.
 - b. Violation of any provisions of the zoning ordinance pertaining to the use of land, construction or uses of buildings or structures or activities conducted on the premises by the permittee or agents of the permittee.
 - c. Violation of any other applicable zoning ordinance or any other county, state or federal law or regulation by the permittee or agents of the permittee, provided that such violations relate to the conduct or activity authorized by the special exception permit

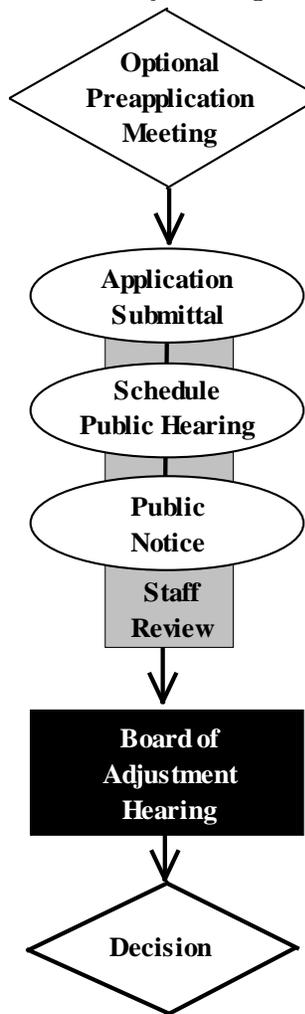


or the qualifications of the permittee or its agents to engage in such conduct or activity.

- d. If a special exception authorized or granted under the provisions of this section is not actually established or the actual construction commenced on the buildings or structures involved within one year from the date of the special use approval, the approval is then revoked.
- e. In the event some construction is involved, it must be diligently completed. A lapse of work for a period of six (6) months will be sufficient to cause the revocation of the special exception approval.
- f. If any use of land, building, structure or premises established under the provisions of this section has been discontinued for a period of one (1) year, it is unlawful to again use such land, building or premises for such discontinued use until a subsequent special exception permit is authorized or granted.

2. Revocation Procedure:

- a. When the Administrator becomes aware of a special exception permittee's failure to meet required conditions, the Administrator shall forward a report recommending revocation of the special use permit to the Board of Adjustment. The Administrator's report shall include reasons supporting the recommendation of revocation.
- b. The Board of Adjustment will review and act upon the recommended revocation at their next scheduled public meeting, following noticing provisions in 9.3.1.



9.3.5 Variance. The Board of Adjustment may authorize a variance from the strict application of zoning design standards where, owing to special conditions, a literal enforcement of these provisions will, in an individual case, result in unnecessary hardship. The granting of a variance shall not result in a substantial detriment to the public good, substantial impairment of affected natural resources or substantial impairment of the intent, purpose and spirit of these Regulations. The Board may not grant a variance to allow any use that is not permitted. Exhibit 9.3.5 illustrates the variance procedure.

A. Applicability. A variance may be granted where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of these Regulations, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of these Regulations would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the property owner.

B. Application. A property owner or designated representative shall initiate a variance request by filing an application and fee with the Administrator. Before any application is made, the applicant is encouraged to confer with the Administrator to discuss the procedures and requirements for a variance request pursuant to these Regulations.

C. Information Required for a Variance. When the applicant seeks a variance, the applicant shall submit the following information:

1. A site plan prepared in accordance with Section 9.3.9. Specific requirements of the site plan may be waived by the Administrator.
2. Evidence that the property was acquired in good faith and that because of the exceptional narrowness, shallowness or shape of the parcel at the time of the effective date of these Regulations, or by reason of exceptional topographic conditions or other extraordinary or exceptional circumstances, the strict application of the terms of these Regulations actually prohibits the practical use of applicant's property in the manner similar to that of other property owners in the zoning district where the property is located;



3. Evidence of the ability and intention of the applicant to proceed with actual construction in accordance with the submitted site plan if the variance is approved.

D. Determination of Completeness. Within five (5) business days of submission, the Administrator shall review the application and determine if the application is complete.

E. Notice and Public Hearing. The Board of Adjustment shall hold a public hearing on each proposed variance after notice has been provided in accordance with Section 9.3.1.

F. Variance Review and Recommendation. The Board of Adjustment shall consider the following criteria when making its decision:

1. The variance requested arises from a condition or conditions which are unique to the property in question and which are not ordinarily found in the same zone or district; that the condition was not created by an action or actions of the property owner or applicant; and that the condition existed prior to enactment of regulations creating the need for the variance;
2. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;
3. The strict application of the provisions of this ordinance would constitute unnecessary hardship upon the property owner;
4. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare;
5. The granting of the variance will not conflict with the general spirit and intent of this ordinance;
6. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district. Non-conforming use of neighboring lands, structures or buildings shall not be considered grounds for issuance of a variance; and
7. The variance requested is the minimum variance that will make possible the reasonable use of the land, building or structure.

G. Variance Approval.

1. The Board of Adjustment shall approve, conditionally approve or deny the application for a variance following the public hearing and shall make findings for its decision in the record.



2. If the Board of Adjustment approves a variance application, the Board of Adjustment may impose such conditions, safeguards and restrictions upon the premises benefitted by the variance as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these Regulations.

H. Revocation of a Variance. Any variance granted under the authority of these Regulations shall be subject to revocation for any or all of the following reasons:

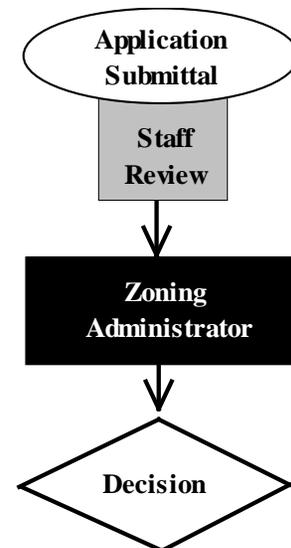
1. If a variance authorized and granted under the provisions of this section is not actually established or the actual construction commenced on the principal buildings or structures involved within one (1) year from the date of the variance approval, the approval shall be revoked.
2. If a variance is conditionally approved, and any of the required conditions are not being fulfilled, the variance approval will be revoked.

9.3.6 Temporary Use Permits. The uses listed in Section 4.2.14 are authorized temporary uses subject to the regulations, time periods and/or restricted zone districts specified. Unless otherwise specified herein, Temporary Use Permit renewals or extensions shall not be allowed. All other uses shall be considered permanent and subject to all regulations within this and other applicable Codes. The process to receive a temporary use permit is shown in exhibit 9.3.6.

A. Application. Applicants for a Temporary Use Permit shall submit a completed application form and a site plan, all of which contain such information as established by the Administrator who shall approve or deny the application within ten (10) working days of submittal.

B. Information Required for a Temporary Use Permit. When the applicant seeks a temporary use Permit, the applicant shall submit the following information:

1. A site plan prepared in accordance with Section 9.3.9. Specific requirements of the site plan may be waived by the Administrator.
2. A description of the impacts of the proposed temporary use on adjacent property and infrastructure, as well as a





description of the applicants plans to mitigate negative impacts.

C. Review and Recommendation. The Administrator may approve an application for a Temporary Use Permit if the following criteria, specific regulations and time limitations are met.

1. **Compatibility with/Effect on Surrounding Area.** The allowance of such use will not be detrimental to the public health, safety and general welfare, and the use is consistent with the purposes of this ordinance; and the use is compatible in intensity, characteristics and appearance with existing land uses in the immediate vicinity of the temporary use, and the use, value and qualities of the neighborhood surrounding the temporary use will not be adversely affected by the use or activities associated with it. In addition to those listed herein, factors such as location, noise, odor, light, dust control and hours of operation will be considered.
2. **Location on Public Property.** The use shall not be on publicly owned property unless authorized in writing by an authorized agent of the public entity owning the property.
3. **Traffic.** The location of the temporary use or structure is such that adverse effects on surrounding properties will be minimal, particularly regarding any type of traffic generated or impacted by the temporary use or structure and impact upon traffic circulation in the area;.
4. **Parking and Access.** Adequate off-street parking, according to Section 6.2 of this Code, shall be provided to serve the use. The use shall not displace the required off-street parking spaces or loading areas of the principal permitted uses on the site. The entrance and exit drives shall be designed to prevent traffic hazards and nuisances.
5. **Property Line Setbacks.** Structures and/or display of merchandise must comply with the property line setback requirements of the zone district within which it is located. The items must be displayed so as not to interfere with the sight visibility triangle of the intersection of the curb line of any two streets or a driveway and a street. In no case shall items be displayed within the public right-of-way.
6. **Sales Tax License.** Before a temporary use involving the sale of merchandise may begin, a sales tax license must be obtained.
7. **Signs.** Signage for temporary uses shall be permitted only within the time frame for which the temporary use is permitted. The total sign allowance for a temporary use shall be twenty (20) square feet, not including permanent signage that may be on a vehicle, legal for use on a public road. All signs for temporary uses shall be attached to a structure, vehicle or existing sign post. Flashing signs shall not be allowed.



8. Number Per Parcel. Only one Temporary Use Permit shall be permitted for a single parcel of land at any given time.

D. Conditions of Approval. In the allowance of such a use, the Administrator or, upon appeal, the Board of Adjustment shall have authority to require such reasonable conditions as necessary to protect the public health, safety and general welfare and to ensure that the use, value and qualities of the neighborhood surrounding the proposed location will not be adversely affected.

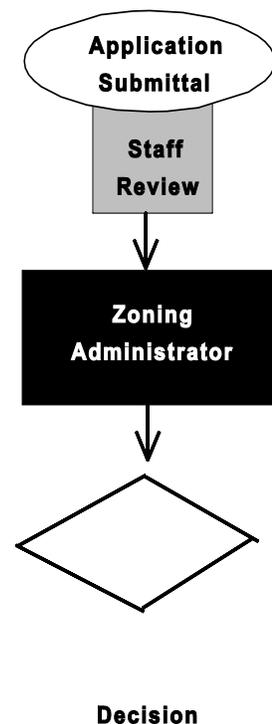
E. Validity. The temporary use permit shall be valid for the use for which the permit was granted for the length of time indicated in the permit as long as the use is in compliance with applicable codes.

9.3.7 Zoning Permit. Before commencing any work pertaining to the erection, construction, reconstruction, moving, conversion, alteration or addition to any building or structure within any district established by the provisions of these Regulations, the owner or the owner's agent must obtain a zoning permit from the Administrator for each building and/or structure. It is unlawful to commence work until and unless the zoning permit has been obtained. Exhibit 9.3.7 illustrates the zoning permit process.

A. **Application.** Before any application is made for a zoning permit, the applicant is encouraged to confer with the Administrator to discuss, in general, the procedures and requirements for a zoning permit request pursuant to these Regulations. A property owner or designated representative of the property owner shall initiate a zoning permit request by filing an application with the Administrator and paying the application fee.

B. **Information Required for a Zoning Permit.** A zoning permit application shall include:

1. A site plan prepared in accordance with Section 9.3.9.
2. If the property is not served by public water or sewer, the site plan must indicate the exact location of the proposed or existing well(s) and the exact location of the proposed or existing septic tank(s) system. These locations must be approved by the County Health Department prior to the issuance of a zoning permit;





3. Sufficient copies of the site plan shall be provided to allow a set to be filed as a permanent record with the Health Department.
- C. Determination of Completeness.** Within five (5) business days of submission, the Administrator shall review the zoning permit application and determine if it is complete.
- D. Issuance.** Before any building or structure is erected, constructed, altered or moved on any property within the County, the zoning permit application together with plans, drawings, sketches or description of same shall be submitted to the Board of Supervisors or its designated agent for approval or disapproval. The Board of Supervisors hereby designates the Administrator as its agent to receive, inspect, consider and approve or disapprove the plans on behalf of the Board.
- E. Variance or Special Exception Permit.** In all cases where the Board of Adjustment has granted a variance or a special exception permit as authorized by these Regulations, the Administrator may approve a zoning permit sufficient to allow such building or work to be done in accordance with the decision of the Board of Adjustment; provided, that no permit shall be issued until the time for rehearing or for appeal or reapplication for rehearing has run.
- F. Conflict With Regulations.** The issuance of a zoning permit pursuant to the authority of this Section shall not be deemed or construed to permit or authorize any violation of any of the provisions of these Regulations or amendments thereto, or any other County Code, ordinance or law. Any permit issued in conflict with these Regulations shall be null and void.

9.3.8 Appeals to Administrative Decisions.

- A. Any person, including any officer or agency of Clinton County, aggrieved by a final administrative determination on a development permit or administrative development approval by the Administrator may appeal such final determination to the Board of Adjustment, in the manner provided in this section.
- B. A written appeal must be filed with the Administrator within 30 working days after the date of the final decision. The appeal shall contain a written statement of the reasons for which the appellant claims the final decision is erroneous. The appeal shall be accompanied by the fee established by the Board of County Supervisors. (Amended 11/22/2000-Ord 2000-05)
- C. The Board of Adjustment shall hear the appeal within 30 days after the filing of the appeal.
- D. The Board of Adjustment may affirm, reverse or modify the decision from which the appeal was taken within 30 days after the date the hearing is closed.



9.3.9 Site Plan Requirements.

A. Purpose and Applicability. The purpose of requiring Site Plan Review is to ensure that proposed development conforms with Zoning Ordinance requirements and includes a compatible arrangement of buildings, off-street parking, lighting, signage, landscaping, vehicle and pedestrian circulation, site drainage and open spaces. Site plan review shall consider the siting of proposed construction and its impact on the existing topography and natural vegetation, and the relationship of proposed construction to existing public and private improvements in the immediate area and its conformance to the policies and standards of the Master Plan. The design shall encourage the elimination of unnecessary grading and endeavor to retain the natural character of the site including the preservation of trees and other natural features.

Applicability. A site plan shall be required for all new construction, exterior additions or changes in use to any structure used for multi-family, commercial, industrial or public use, whether such use is a permitted use in the district, authorized by conditional use permit or allowed as a planned unit development. Site plans also may be required, at the County's discretion, for rezonings, plan amendments, conditional uses and special exceptions. No zoning permit shall be issued for a development subject to site plan review until such site plan has been approved in accordance with this section. (Amended 1/26/02-Ord 2002-02)

B. Application for Site Plan Review.

1. Before any application is made, the applicant is encouraged to confer with the Administrator to discuss, in general, the procedures and requirements for site plan approval pursuant to this ordinance.
2. A property owner or designated representative shall initiate site plan review by filing an application with the Administrator. Applicant shall prepare plans as required on the application.
3. A site plan may be prepared and submitted for the entire development at one time or for individual development phases. Where a site plan is submitted for an individual development phase only the applicant shall also prepare a conceptual site plan for the remainder of the applicant's contiguous holdings. The conceptual site plan shall indicate the approximate location and densities of development on the remainder of the property, together with a proposed street and drainage system.
4. All site plans for single family dwellings shall illustrate to scale, the location, dimensions and setbacks of all site improvements.



5. All site plans for uses other than single family and exempt structures shall include all information needed to evaluate compliance with this ordinance. At the discretion of the Administrator, any of the following information may be required:
 - a. Name and address of record of landowner, as well as the architect, engineer, surveyor and contractor, as applicable;
 - b. Date, north arrow and scale;
 - c. A scale of not less than 1" = 20' if the site is less than three (3) acres and 1" = 100' if the site is three (3) acres or more.
 - d. A vicinity map at a scale of not less than one (1) inch equals two thousand (2,000) feet (1" = 2,000 ft.);
 - e. Location of existing and proposed rights-of-way, easements and infrastructure (streets, sewers, water lines, etc.)
 - f. Size, use and location of existing and proposed structures and drive on the subject property, and existing structures and drives within 100 feet of the property.
 - g. A legal description and accompanying map exhibit of the property, showing the location and type of boundary evidenced. The legal description shall include the following data:
 - (1) Metes and bounds or subdivision description of all property lines;
 - (2) Total area of property;
 - h. Existing topography with maximum contour interval of two (2) feet, except where existing ground is on a slope of less than two percent (2%) then either one foot contours or spot elevation shall be provided where necessary.
 - i. Location of floodplain areas subject to flooding, centerlines of drainage courses, and finished floor elevations of proposed buildings;
 - j. The height, number of floors and proposed square footage of all buildings, both above and below or partially below the finished grade;
 - k. The yard dimensions from the development boundaries and adjacent streets and alleys;
 - l. The traffic and the pedestrian circulation system, including the location and width of all streets, driveways, entrances to parking areas and parking structures, walkways and bicycle paths;



- m. Off-street parking and loading areas, including dimensions of proposed drives and parking spaces, and structures and landscaping for parking areas;
- n. Greenbelt and other active recreation space areas, together with proposed private recreational areas, specifying the proposed improvement of all such areas, and delineating those areas proposed for specific types of recreational facilities;
- o. A master sign plan, detailing all proposed signage for the site;
- p. A plan or statement showing the location and design of all screening measures and indicating the type, building materials and height of such screening;
- q. When the development is to be constructed in stages or units, a final sequence of development schedule showing the order of construction of such stages or units, and approximate completion date for the construction of each stage or unit;
- r. A copy of all covenants, restrictions and conditions pertaining to the use, maintenance and operation of private open space areas;
- s. A final statement in tabular form (chart) which sets forth the following data, when such data is applicable to a given development plan:
 - (1) Total number of dwelling units, if applicable;
 - (2) Residential density and units per acre, if applicable;
 - (3) Total floor area (in square feet) and floor area ratio for each type of use;
 - (4) Total area in open space;
 - (5) Total area in developed recreational open space; and
 - (6) Total number of off-street parking spaces, required and provided and total off-street loading spaces, required and provided;
- t. A landscape plan prepared by a registered landscape architect, which shall include an itemized plant materials schedule with botanical and common names of materials, sizes and quantities. This plan shall also include the location of all existing trees greater than 12 inches in diameter; and
- u. Drainage information sufficient to meet County requirements.



- C. Determination of Completeness.** Within 30 working days of submission, the Administrator shall review the site plan application and determine if the application is complete.
- D. Criteria For Approval.** Before approving the site plan, the Administrator shall make the following determinations:
1. The site is capable of accommodating the building(s), parking areas and drives with appropriate open spaces and is in compliance with all requirements of these Regulations.
 2. The site plan provides for safe and easy ingress, egress and internal traffic circulation.
 3. All development features, including the principal building and any accessory buildings, open spaces, service roads and parking areas are located so as to minimize the possibility of adverse effects on adjacent properties.
 4. The plan is consistent with accepted land planning and site engineering design principles.
 5. The plan represents an overall development pattern that is consistent with the Master Plan, design guidelines and other adopted planning policies.
 6. The plan complies with all applicable development regulations.
- E. Appeal of Denied Application.** A denied application may be appealed to the Board of Adjustment within 30 days of the denial.
- F. Duration of Permit/Approval.**
1. Unless a longer time shall be specifically established as a condition of approval, or an extension granted, site plan approval shall lapse and become void 1 year from the date of site plan approval.
 2. Site plan approval may be extended only upon the Applicant's written request for extension of the plan as approved by the Administrator prior to expiration. Such extension, if granted, shall not exceed a period of 1 year.
 3. Upon violation of any applicable provision of this section or, if granted subject to conditions, upon failure to comply with conditions, the site plan approval shall be suspended and shall be subject to revocation upon notification to the owner of the subject property.
 4. A site plan approval pursuant to these provisions shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the application.

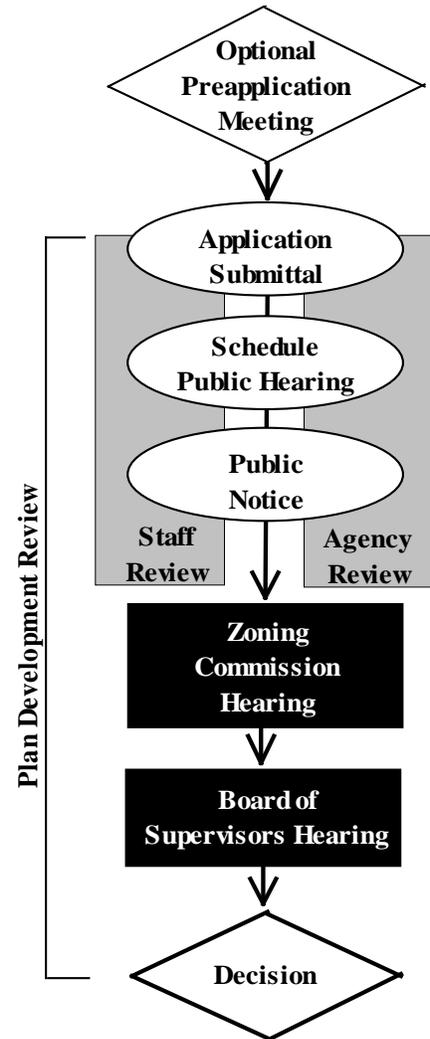


- G. Site Plan Amendments.** The Administrator shall be authorized to review and approve amendments to previously approved site plans, when the amendment is for the expansion of floor space, provided, the amendment meets all requirements of these Regulations.

9.3.10 Planned Unit Development.

A. Application. The Planned Unit Development district may be applied to residential, commercial, industrial and mixed use projects to provide design flexibility not available through strict interpretation of the standards established in Chapter 3. Design flexibility is provided through the Planned Unit Development district to enhance long-term community benefits that may be achieved through high quality development that provides:

1. More efficient infrastructure.
2. Reduced traffic demands.
3. More usable public or private open space.
4. Recreational amenities.
5. Needed housing choices.





B. Preliminary Plan.

- 1. Application.** A Preliminary Plan constitutes a major step in the review process. The submittal shall be detailed enough to answer the question, "Should this use, designed in this particular manner, be constructed on this site?" The project density shall be justified at the preliminary stage through site and structure design. The Board of Supervisors may limit the density on all or any portion of a PUD if it determines that the design fails to fulfill the purposes of this Section or Section 3.6.9. All required rights-of-way shall be dedicated at the time the Preliminary Plan is approved. The applicant may request, and the Planning & Zoning Commission may authorize at its discretion, concurrent review of the preliminary and final plan.
- 2. Procedures.**
 - a. Within sixty (60) days following the submittal of the Preliminary Plan, the Zoning Commission shall review the plan at a public hearing. Within thirty-five (35) days of the public meeting, the Zoning Commission shall recommend approval, denial or approval with conditions.
 - b. The Board of Supervisors shall review the Preliminary Plan at a public hearing within thirty (30) days following the receipt of the Zoning Commission recommendation. The Board of Supervisors shall consider the contents of the Preliminary Plan submittal and the recommendation of the Commission. It shall then approve, conditionally approve or deny the Preliminary Plan within thirty (30) days of its hearing.
 - c. If the Preliminary Plan proposes multiple phases, specific densities shall be assigned to each phase. Density at each preliminary phase shall be justified by specific design. Density from one phase may be shifted to another phase subject to Board of Supervisors approval. The Board of Supervisors, in approving the Preliminary Plan, may conduct the first reading of the rezoning ordinance for the area described in the Preliminary Plan.
 - d. The Administrator has the right to approve minor changes to the Preliminary Plan pursuant to Section 9.3.10.D.
 - e. If a Preliminary Plan is approved, the applicant shall submit a Final Development Plan and Final Subdivision Plat application in accordance with the approved development schedule.
 - f. The procedures for the public hearing and the notification standards shall comply with Section 9.3.1.
- 3. Approval Criteria.** A preliminary plan application and submittal shall be reviewed based on criteria established in Section 3.6.9 of these Regulations.
- 4. Submittal Requirements.** A preliminary plan application shall be prepared and submitted in conformance with County codes and policies.



C. Final Development Plan and Final Subdivision Plat

- 1. Application.** The Final Development Plan and Final Subdivision Plat act as the blue print for development of a Planned Unit Development project over the length of time the project is developed. The Plan and the Plat ensure that consistency with the Master Plan and adopted codes is maintained during the period of development and construction.
- 2. Procedures.**
 - a. Within sixty (60) days following submittal of the Final Development Plan, the Planning & Zoning Commission shall review the Final Plan and Plat at its public Hearing. It shall accept, reject, or require modifications to the Final Plan and/or Plat within thirty (30) days of its hearing. An appeal of the Planning & Zoning Commission's decision may be made in accordance with the provisions of Section 9.3.8.(Amended 11/22/2000-Ord 2000-05)
 - b. Upon receipt of a recommendation, the Board of Supervisors shall review the Final Development Plan and Plat and Planning & Zoning Commission recommendation following a public hearing. The Board of Supervisors shall approve, approve with conditions or disapprove the Final Plan and/or Plat within thirty days (30) of its hearing.
 - c. The procedures for the public hearing and the notification standards shall comply with Section 9.3.1.
 - d. Upon final approval, the plan and plat shall be recorded. The final plat shall contain all of the following information which is pertinent to the PUD: the setbacks, a list of approved and/or specifically excluded uses, and any pertinent conditions or stipulations which were previously made or imposed. The ordinance creating the PUD shall become effective upon recording of the plat.
 - e. All proposed publicly- or commonly-owned site improvements such as, but not limited to, those listed below, shall be included in the improvements agreement, improvements guarantee, and development schedule:
 - (1) road grading, surfacing/signing/lighting.
 - (2) curbs/gutters;
 - (3) sidewalks/pedestrian walks/trails/associated structures;
 - (4) sanitary sewers stubbed to each lot;
 - (5) water lines stubbed to each lot, including fire hydrants;
 - (6) drainage structures/improvements;
 - (7) open space improvements/facilities/landscaping; and
 - (8) structures/parking areas.



- f. Unless the time limit established by the final development schedule has expired, zoning permits for buildings which conform to the recorded Final Development Plan may be issued.
- g. The County may require that a homeowners association or corporation shall be created to maintain and administer the project's lands or facilities. Articles of Incorporation and Restrictive Covenants shall be recorded at, or prior to, the recording of the Final Development Plan and Plat. The Homeowners Association shall be required to maintain all common space in reasonable order and condition on a timely, consistent basis.

3. Approval Criteria. A final plan application and submittal shall be reviewed based on criteria established in Section 3.6.9.

D. Amendments to the Final Plan

1. Minor Changes. Minor changes may be authorized by the Administrator under the following conditions, providing those changes are required by engineering, technical, or other circumstances not originally foreseen at the time the final plan was approved.

- a. The applicant for a minor change to a final plan shall provide the Administrator with envelopes containing notice of the requested change which are stamped and addressed to each person who testified concerning the project at any prior public meeting. The Administrator shall mail this notice a minimum of seven (7) days prior to taking any action on the request.
- b. The term "minor changes" as used in this Section is considered to represent changes which do not alter the overall characteristics of the total plan and which create no adverse impacts on adjacent uses or public services and facilities. Some examples of what can be considered as minor changes are:
 - (1) changes in location and type of landscaping and/or screening so long as the approved character and intent is maintained;
 - (2) changes in the orientation of portions of parking areas so long as the effectiveness of overall site circulation and parking is maintained; parking areas shall be relocated not closer than twenty feet (20') to any residential structure or ten feet (10') to any street or right-of-way lines; and the number of parking spaces shall not be reduced by the relocation.
 - (3) changes in the location of sidewalks and pathways, provided that continuity of pedestrian circulation remains;
 - (4) the reorientation, but not complete relocation, of major structures;
 - (5) changes resulting in a decrease of building separation or setbacks so long as those changes will not impact adjacent properties or uses.
 - (6) No minor change authorized by this section may cause any of the following:



- (i) change in the permitted uses or of development character;
- (ii) increased overall coverage of structures;
- (iii) increased intensity of use;
- (iv) increased demand for traffic circulation and public utilities;
- (v) decrease in public or private open space;
- (vi) decrease in provisions for off-street parking, loading and screening thereof;
- (vii) decrease in pavement and sidewalk widths;
- (viii) increased numbers of dwellings; or
- (ix) increased deviation from the minimum design standards established in Chapter 3.

2. **Other Changes.** All other changes to the approved Final Plan shall be deemed "major" and shall be approved only by the Planning & Zoning Commission or, upon appeal, to the Board of Supervisors after review of a revised Final Plan and/or Plat.

No amendments may be made in the approved Final Plan unless the applicant establishes that such amendments are required as a result of: changes in conditions which occurred after final plan approval; changes in the development policy of the community; or by conditions that were reasonably unforeseen at the time of Final Development Plan approval.

3. **Recording of Changes and Amendments.** Any changes which are approved for the final plan and/or plat shall be recorded as amendments to the previously recorded plan and/or plat.

E. Development According to the Final Plan.

1. **Site Development Plan Review.** No zoning permit shall be issued on any site unless a site plan has been submitted and approved in accordance with the provisions in Section 9.3.9 and unless such site plan conforms with the conditions of the adopted Final Plan.
2. **Construction Improvements or Posting of Bond.** No buildings may be erected and no uses may occupy any portion of the district until the required related off-site improvements are constructed or appropriate security as determined by the County Engineer and County Attorney is provided to ensure construction. If the PUD is to be developed in phases, all improvements necessary to the proper operation and functioning of each phase, even though same may be located outside of the section, must be constructed and installed or appropriate security as determined by the Administrator must be provided to ensure their construction.