

# CHAPTER 10. GENERAL APPLICATION REVIEW PROCEDURES

## SECTION 10.1. PURPOSE AND INTENT

This Chapter establishes the procedures used by the County for the processing of applications for development permits or approvals. It is the intent of this Chapter to establish a uniform set of processes to foster greater efficiency and predictability for applicants, County residents, County staff, and elected and appointed officials during the review of development applications.

## SECTION 10.2. CONFLICT WITH SPECIFIC PROCEDURES

In instances where the standards in this section are in conflict with the standards for a specific application review procedure, the standards in the specific review procedure shall control.

## SECTION 10.3. PRE-APPLICATION CONFERENCE

### A. PURPOSE

The purpose of a pre-application conference is to provide an opportunity for the applicant to learn about the submittal requirements, procedures, and standards applicable to a particular development application. A pre-application conference is also an opportunity for County staff to become familiar with, and offer preliminary comments about the scope, features, and impacts of the proposed development, as it relates to the standards in this Ordinance.

### B. APPLICABILITY

1. Unless otherwise required by this Ordinance, a pre-application conference is optional.
2. There are no limits on the number of pre-application conferences that may be conducted.
3. Discussions at a pre-application conference are not binding on the County or on an applicant and do not constitute filing or review of an application.

### C. SCHEDULING

Applicants shall contact the Administrator to schedule a pre-application conference.

### D. PROCEDURE

1. Following receipt of a request for a pre-application conference, the Administrator shall schedule the conference and notify the applicant of the time, location, and any suggested submittal requirements.
2. During the conference, attendees will explain the application review process and any special issues or concerns regarding the subject proposal.

### E. SUBMITTAL REQUIREMENTS

1. Applicants may, but are not required to, prepare a generalized site sketch or plot plan of the development as part of the request to schedule a pre-application conference.
2. No material submitted during a pre-application conference shall constitute an application for development or be binding on the County or an applicant.

## SECTION 10.4. COMMUNITY MEETING

### A. PURPOSE

The purpose of the community meeting is to inform landowners and occupants of nearby lands about a development application that is going to be reviewed under this Ordinance, and to provide the applicant an opportunity to hear comments and concerns about a development application prior to the review process. The community meeting is proposed as a means of resolving potential conflicts and outstanding issues with nearby landowners, where possible, in an informal context.

#### B. APPLICABILITY

A community meeting is required prior to initial consideration by the Planning Board for a conditional rezoning or planned development application. A community meeting is optional, at the applicant's discretion, for any other proposed development application.

#### C. PROCEDURE

In cases when a community meeting is conducted, it shall comply with the following procedure:

##### 1. TIMING

- i. The meeting should be held at a time of day when the maximum number of neighbors may attend, typically between the hours of 10AM and 8PM.
- ii. The meeting shall take place no less than ten days before the application is to be initially considered by the Planning Board.
- iii. There is nothing limiting the conduct of more than one community meeting provided they are all conducted at least ten days prior to the initial consideration of the application by the Planning Board.

##### 2. FORM

- i. The community meeting can take the form of a meeting or gathering between the applicant, or the applicant's representative, and landowners or other interested parties.
- ii. Multiple meetings may take place, but advance notification for each meeting shall be provided in accordance with Section 10.4.C.4, Notification.

##### 3. LOCATION

- i. The neighborhood information meeting shall take place in a location open to the general public or a community space as close as possible to the site where development is proposed.
- ii. In the event no public or community space is suitable, the meeting may take place at another County-owned site, subject to a prior reservation made by the applicant.

##### 4. NOTIFICATION

- i. The applicant shall provide notification of the community meeting via certified mail, return receipt requested, to all landowners and occupants abutting the subject site where development is proposed.
- ii. Mailed notice shall also be provided to each home owner's association, if applicable, responsible for lands abutting the subject site where development is proposed.
- iii. Mailed notice shall be provided no less than ten days prior to the date of the community meeting.

##### 5. INFORMATION PROVIDED

The applicant shall provide the following in the community meeting invitation:

- i. The purpose of the meeting;
- ii. A description of the proposed development;
- iii. The time, date, and location of the meeting;
- iv. Telephone and email contact information for the applicant or applicant's representative; and
- v. Any additional information that would promote understanding of the development proposal.

##### 6. CONDUCT OF MEETING

At the meeting, the applicant shall explain the development proposal and the proposed application, respond to questions and concerns attendees raise about the application, and propose ways to resolve conflicts and concerns.

##### 7. STAFF ATTENDANCE

- i. County staff shall attend the community meeting and shall prepare a report documenting the proceedings. The report shall describe the following:
  01. A listing of the parties and organizations receiving notice of the community meeting;
  02. The date, time, and location of the community meeting;
  03. A listing of all meeting attendees;

## CHAPTER 10. GENERAL APPLICATION REVIEW PROCEDURES

### SECTION 10.5. APPLICATION FILING AND ACCEPTANCE

04. Copies of all materials presented at the community meeting;
05. A summary of the issues discussed during the community meeting;
06. Any changes to the proposed application suggested by meeting attendees; and
07. Any changes made to the application by the applicant as a result of the community meeting.

- ii. In cases where more than one community meeting is conducted, County staff shall attend each meeting and prepare a separate report for each community meeting conducted.
- iii. The community meeting report shall be included with the application materials provided to the Planning Board and Board of County Commissioners.
- iv. Nothing shall limit a County staff member from attending a community meeting as a private citizen in cases where they are a party who is required to be notified about the meeting.

### SECTION 10.5. APPLICATION FILING AND ACCEPTANCE

#### A. AUTHORITY TO FILE APPLICATIONS

1. Unless expressly stated otherwise in this Ordinance, development applications associated with a particular lot or site reviewed under this Ordinance shall be filed by the landowner, contract purchaser, or other person having a recognized property interest in the land on which development is proposed.
2. Applications for amendments to the text of this Ordinance may only be initiated by the Administrator, the Planning Board, the Board of County Commissioners, or a landowner.

#### B. APPLICATION CONTENT

The County shall establish development application content and forms, which shall be maintained by the Administrator.

#### C. APPLICATION FEES

1. The Board of Commissioners shall establish application fees and may amend and update those fees as necessary. Fees shall cover the costs of review, including public notification, as required.
2. No action shall be taken on an application and no application approval shall be issued until all required application fees are paid in full.

#### D. APPLICATION FILING

1. Applications shall be filed with the County in the form established by the County, along with the appropriate application fee.
2. An application shall not be considered to be submitted until determined to be complete in accordance with Section 10.5.F, Determination of Application Completeness.
3. No application shall be reviewed or decided until after it is determined to be complete.

#### E. BURDEN OF PRESENTING COMPLETE APPLICATION

The burden of presenting and maintaining a complete application shall be solely upon the applicant.

#### F. DETERMINATION OF APPLICATION COMPLETENESS

Upon development application filing, the Administrator shall determine, within seven business days, whether the application is complete or incomplete. A complete application is one that:

1. Contains all information and materials identified in this Ordinance and all supporting documentation, as required for submittal of the particular type of application;
2. Is in the form and number of copies required by the County;
3. Is legible and printed to scale, where appropriate;
4. Is signed by the person(s) with the authority to file the application;
5. Includes information in sufficient detail to evaluate whether or not the application complies with the applicable review standards in this Ordinance;
6. Is accompanied by the fee established for the particular type of application;
7. Includes material associated with a pre-application conference, if one is required;

## CHAPTER 10. GENERAL APPLICATION REVIEW PROCEDURES

### SECTION 10.6. PERMIT CHOICE

8. Includes the written summary of a neighborhood information meeting, if one was conducted prior to application submittal; and
9. Is not subject to the limitations described in Section 10.14, Limitation on Subsequent Applications.

#### G. APPLICATION INCOMPLETE

If the application is incomplete, the Administrator shall notify the applicant of the deficiencies in writing. The applicant may correct the deficiencies and resubmit the application for completeness determination in accordance with Section 10.5, Application Filing and Acceptance.

#### H. APPLICATION COMPLETE

1. On determining that the application is complete, it shall be considered as submitted, and the County shall notify the applicant and commence review in accordance with the procedures and standards of this Ordinance.
2. Nothing shall preclude the Administrator or a review authority from re-evaluating an application for completeness in the event application inadequacies are revealed at a date subsequent to an application being declared complete.

### SECTION 10.6. PERMIT CHOICE

**A.** If a development permit applicant submits a permit application for any type of development and a rule or ordinance is amended, including an amendment to any applicable land development regulation, between the time the development permit application was submitted and a development permit decision is made, the development permit applicant may choose which adopted version of the rule or ordinance will apply to the permit and use of the building, structure, or land indicated on the permit application. If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit. If an applicable rule or ordinance is amended after the development permit is wrongfully denied or after an illegal condition is imposed, as determined in a proceeding challenging the permit denial or the condition imposed, the development permit applicant may choose which adopted version of the rule or ordinance will apply to the permit and use of the building, structure, or land indicated on the permit application. Provided, however, any provision of the development permit applicant's chosen version of the rule or ordinance that is determined to be illegal for any reason shall not be enforced upon the applicant without the written consent of the applicant. .

**B.** This section applies to all development permits issued by the State and by local governments.

**C.** If a permit application is placed on hold at the request of the applicant for a period of six consecutive months or more, or the applicant fails to respond to comments or provide additional information reasonably requested by the local or State government for a period of six consecutive months or more, the application review is discontinued and the development regulations in effect at the time permit processing is resumed apply to the application.

**D.** Where multiple local development permits are required to complete a development project, the development permit applicant may choose the version of each of the local land development regulations applicable to the project upon submittal of the application for the initial development permit. This subsection is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit.

**E.** Any person aggrieved by the failure of a State agency or local government to comply with this section or G.S. 160D-108(b) may apply to the appropriate division of the General Court of Justice for an order compelling compliance by the offending agency or local government, and the court may issue that order. Actions brought pursuant to any of these sections shall be set down for immediate hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts.

### SECTION 10.7. STAFF REVIEW AND ACTION

**A. INITIAL STAFF REVIEW**

1. Following application completeness determination, development application materials shall be distributed by the Administrator to all appropriate staff and review agencies for review and comment.
2. Applications shall be reviewed during the review cycle in place when the application is determined to be complete.
3. In considering the application, the Administrator or other County staff (as appropriate), shall review the application, relevant support material, and any comments from other staff and review agencies to which the application was referred.
4. If deficiencies in complying with applicable standards of this Ordinance are identified, the Administrator shall notify the applicant of such deficiencies in writing and provide the applicant a reasonable opportunity to discuss them and revise the application accordingly.

**B. STAFF REPORT AND RECOMMENDATION**

1. The Administrator shall prepare a written staff report on any application to be reviewed or decided by the Planning Board, Board of County Commissioners, or the Board of Adjustment.
2. The staff report shall conclude whether the application complies with all applicable review standards of this Ordinance.
3. The staff report shall not include a recommendation from County staff on variance applications or appeals.
4. In cases where the staff finds an application does not comply with the provisions of this Ordinance the staff report shall cite the specific code section(s) in question and the reasons why the application fails to comply.
5. A staff report is not required for applications decided by the Administrator, though one may be prepared.

**C. DISTRIBUTION OF APPLICATION AND STAFF REPORT**

In cases where a staff report is prepared, the Administrator shall take the following actions within a reasonable time period before the application is scheduled for review:

1. Schedule and ensure any required public notice of the application (if appropriate) is prepared in accordance with Section 10.8, Public Notification;
2. Transmit the application, related materials, and staff report to the appropriate review authority (ies);
3. Transmit a copy of the staff report and any related materials to the applicant, the appellant, and the landowner (if the landowner is different from the appellant or the applicant) at the same time they are transmitted to the appropriate review authority (ies); and
4. Make the application, related materials, and staff report available for examination by the public.

**D. APPLICATIONS SUBJECT TO DECISION BY STAFF**

1. In cases where a development application is decided by the Administrator or other designated County staff member, the appropriate County staff member shall make one of the following decisions, based on the review standards set forth for the application type:
  - i. Approve the application;
  - ii. Disapprove the application; or
  - iii. Delay decision making for a specified time to allow the applicant to revise the application for compliance with the requirements in this Ordinance.
2. In some instances, County staff may decide an application contingent upon further revision by the applicant in accordance with the direction provided in the decision.

**E. CONFLICT OF INTEREST**

1. A County staff member shall not make a decision on an application where:
  - i. The outcome of the matter being considered is reasonably likely to have a direct, substantial, or readily identifiable financial impact on them or a member of their immediate family; or

## CHAPTER 10. GENERAL APPLICATION REVIEW PROCEDURES

### SECTION 10.8. PUBLIC NOTIFICATION

- ii. In cases where there is a close familial, business, or other associational relationship with the landowner or applicant.
- 2. No County staff member shall be financially interested in or employed by a business that is financially interested in a development subject to regulation under this Ordinance unless the County staff member is the owner of the land or building involved.
- 3. No County staff member or an employee of a company contracting with the County to provide staff support shall engage in any work that is inconsistent with their duties or inconsistent with the interest of the County, as determined by the County.

### SECTION 10.8. PUBLIC NOTIFICATION

#### A. PUBLIC MEETING DISTINGUISHED

1. Public meetings conducted in accordance with this Ordinance are not public hearings, and do not require the provision of public notification to individual landowners adjacent to the development in accordance with this section.
2. Public meetings do require general public notification in accordance with Section NCGS 143-318.12.

#### B. PUBLIC HEARING SCHEDULING

When a development application is subject to a public hearing, the Administrator shall ensure that the public hearing is scheduled for a regular meeting or a meeting specially called for that purpose by the review authority.

#### C. PUBLIC NOTIFICATION REQUIREMENTS

1. All development applications subject to public notification shall comply with the appropriate standards in NCGS Sections 160D-406, 160D-601, 160D-602, 160D-1005, and other applicable sections of the North Carolina General Statutes, as appropriate.
2. The Public Notification Requirements Table below summarizes the provisions related to public notice. In computing the required time periods, the day the notice is published, mailed, or posted shall not be included, but the day of the hearing shall be included.

**PUBLIC NOTIFICATION REQUIREMENTS TABLE**

DEVELOPMENT APPLICATION TYPE	TYPE OF PUBLIC NOTIFICATION REQUIRED (R=REQUIRED)		
	PUBLISHED [1] [2]	MAILED [3]	POSTED [4]
Appeal	<input type="radio"/>	R [5]	<input type="radio"/>
Planned Development	R	R	R
Rezoning	R	R [6]	R
Special Use Permit	<input type="radio"/>	R	R
Text Amendment	R	<input type="radio"/>	<input type="radio"/>
Variance	<input type="radio"/>	R	R
Vested Rights Certificate	R	R	<input type="radio"/>

## PUBLIC NOTIFICATION REQUIREMENTS TABLE

DEVELOPMENT APPLICATION TYPE	TYPE OF PUBLIC NOTIFICATION REQUIRED (R=REQUIRED)		
	PUBLISHED [1] [2]	MAILED [3]	POSTED [4]
NOTES:			
[1] Published notice shall be provided once a week for two successive calendar weeks, with the first notice published between 10 and 25 days before the public hearing.	[2] Applications that would change the Official Zoning Map, the range of allowable uses, changes to telecommunications towers or wind energy conversion facilities, changes to major subdivision plats, or increases of 50 percent or more in the size of an existing subdivision within 5 miles of a military installation shall require mailed notice be provided via certified mail to the Regional Land Use Advisory Commission between 10 and 25 days before the public hearing.	[3] Mailed notice shall be provided to the applicant, affected landowners, and landowners of abutting land between 10 and 25 days before the public hearing.	[4] Posted notice shall be provided between 10 and 25 days before the public hearing.
[5] Mailed notice shall only be required in cases where an appeal pertains to a particular lot or site.	[6] Public notification of large-scale zoning map amendments of more than 50 lots may be provided in accordance with NCGS Section 160D-602.b.		

**D. PUBLISHED NOTICE REQUIREMENTS**

When the North Carolina General Statutes require that public notice be published, the designated review authority shall publish a notice in a newspaper that is regularly published at least one time per week and that has general circulation in the County.

**E. MAILED NOTICE REQUIREMENTS**

When the North Carolina General Statutes require that public notice be mailed, the designated review authority shall notify by certified mail return receipt of the public hearings to the applicant(s), the owner(s) of the parcel(s) owned per the most recent deed recorded in the Register of Deeds Office, and all property owners of abutting properties (as the last addresses listed in the County tax records) at least 10 but not more than 25 days prior to the date of each public hearing.

1. Notice shall be deemed mailed by its deposit in the United States first class mail, properly addressed, postage paid. The content and form of the notice shall comply with Section 10.8.G, Notice Content.
2. A copy of the mailed notice shall be maintained in the offices of the designated review authority for public inspection during normal business hours.
3. Mailed notice shall not be required when a rezoning includes more than 50 lots or tracts owned by at least 50 different landowners, provided the County publishes a map (occupying at least ½ of a newspaper page) showing the boundaries of the affected area in a newspaper of general circulation once a week for two successive calendar weeks between 10 days and 25 days before the public hearing. Affected landowners residing outside the newspaper circulation area shall be notified via first class mail pursuant to Section 10.8.E, Mailed Notice Requirements.
4. The County may, as a matter of policy, and on a case-by-case basis, provide public notification about a pending application that exceeds the minimum requirements for who shall receive mailed notice specified in the North Carolina General Statutes. Decisions about instances when such public notification shall be provided is in the sole discretion of the County, and evidence of such additional notification shall be included within the staff report prepared for the application.

**F. POSTED NOTICE REQUIREMENTS**

When the North Carolina General Statutes require that public notice be posted, the Administrator shall provide the required posted public notice in accordance with the following:

1. A sign (or signs) shall be placed on the subject property in a conspicuous location so as to be clearly visible to the traveled portion(s) of the respective street(s). Where the land subject to the notice does not have frontage on a public street, the sign shall be erected on the nearest street right-of-way.
2. The content and form of the notice shall comply with Section 10.8.G, Notice Content.

**G. NOTICE CONTENT**

Unless expressly indicated otherwise by the North Carolina General Statutes, all notices by mail or publication shall:

1. Identify the date, time, and place of the public hearing;
2. Describe the land involved by parcel identification number (PIN), street address, or by its relationship to a fronting street and the nearest cross street (if applicable);
3. Describe the nature and scope of the proposed development or action; and
4. Identify the means to contact a County official for further information.

**H. CONSTRUCTIVE NOTICE**

1. Minor defects in any notice shall not impair the notice or invalidate proceedings if a bona fide attempt is made to comply with applicable notice requirements. Minor defects in notice may include, but are not limited to:
  - i. Errors such as landowner name, title, or address existing in the County tax listing; or
  - ii. Typographical or grammatical errors that do not impede communication of the notice to affected parties.
2. Failure of a party to receive written notice shall not invalidate subsequent action. A posted notice that becomes no longer visible due to weather, theft, or other unintended circumstances shall not invalidate proceedings if a bona fide attempt is made to comply with applicable posted notice requirements. In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a public hearing and the location of the subject property shall be strictly adhered to.

**SECTION 10.9. PUBLIC MEETINGS AND HEARINGS****A. HEARINGS DISTINGUISHED**

1. Public hearings identified in this Ordinance shall be either legislative or quasi-judicial (evidentiary) in nature.
2. Public hearings conducted for appeals, variances, and special use permits are quasi-judicial or evidentiary in nature. All other public hearings are legislative in nature.

**B. LEGISLATIVE PUBLIC HEARINGS****1. PROCEDURE**

- i. Legislative public hearings shall not be conducted until after provision of required public notification in accordance with Section 10.8, Public Notification.
- ii. The legislative public hearing shall be open to the public and shall be conducted in accordance with the review authority's adopted rules of procedure for public hearings.
- iii. Attendees shall be afforded the opportunity to comment during a public hearing, as authorized in the adopted rules of procedure.

**2. VOTING**

- i. The review authority shall consider the application, relevant support materials, staff report, any recommendations, and public comments. After the conclusion of the public hearing, it shall make one

of the decisions authorized for the particular type of application based on the review standards applicable to the application type.

- ii.** A review authority member shall not vote on an application where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member in accordance NCGS Section 160D-109.
- iii.** A review authority member shall not vote on an application where the landowner or applicant is a person with whom the member has a close, familial, business, or other associational relationship.
- iv.** A decision of the review authority on an application considered during a legislative public hearing shall be decided by a simple majority of the review authority members, excluding any members who are recused from voting due to a conflict of interest.

### **3. APPLICATION REVISION**

- i.** An applicant may revise an application during a legislative public hearing in response to recommendations or suggestions of the review authority.
- ii.** In cases where a substantial change to an application is proposed following review by a prior review authority, the review authority deciding the application shall not make a decision on the application until after it is remanded to the prior review authority (ies) for consideration of the substantial change.
- iii.** The review authority deciding the application may approve an application modified during a legislative public hearing provided that all changes are properly identified in the motion of approval and that any conditions of approval are consented to, in writing, by the applicant.
- iv.** In cases where an application has been modified during a legislative public hearing, the applicant shall submit any necessary site plans, plats, or other documents depicting the modification to the appropriate County staff for consideration and approval prior to issuance of any development permit approvals.
- v.** The County may provide additional public notice related to revision of an application on a case-by-case basis but is under no legal requirement to provide additional notice in cases where applications are revised in accordance with this section.

### **4. REMAND**

A review authority may remand the application to a prior review authority or County staff for further consideration of new information or specified issues or concerns, if appropriate.

### **5. RECORD**

- i.** A recording may be made of all public hearings and if made, the recordings shall be maintained in accordance with County policy.
- ii.** Accurate minutes shall also be kept of all proceedings, but a transcript need not be made.

## **C. QUASI-JUDICIAL PUBLIC HEARINGS**

Quasi-judicial public hearings shall be conducted in accordance with State law, the review authority's rules of procedure, and the following requirements:

### **1. NOTICE REQUIRED**

Quasi-judicial public hearings shall not be conducted until after provision of required public notification in accordance with Section 10.8, Public Notification.

### **2. APPLICATION MATERIALS**

The Administrator or staff to the board shall transmit to the board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.

**3. OPPORTUNITY TO PRESENT TESTIMONY AND EVIDENCE**

The applicant, the County, and any party with standing shall be afforded a reasonable opportunity to present testimony and evidence in support of or in opposition to the application, and to ask questions of or cross examine the applicant, the applicant's representatives, anyone providing testimony during the hearing, County staff, and the County staff's representatives.

**4. LIMITATION ON EVIDENCE**

- i. The Chair or other presiding officer may limit or exclude incompetent evidence, immaterial evidence, repetitive evidence, and personal attacks.
- ii. Decisions shall not be based upon hearsay evidence though such evidence may be entered into the record.
- iii. Only evidence presented during the public hearing may be relied upon in making a decision on the application.

**5. EX PARTE COMMUNICATION**

Ex parte communications between an applicant or an affected party and a member of the review authority are prohibited. If it occurs, it shall be disclosed during the quasi-judicial public hearing.

**6. VOTING****I. GENERALLY**

The review authority shall consider the application, relevant support materials, staff report, any recommendations, and public comments. After the conclusion of the public hearing, it shall make one of the decisions authorized for the particular type of application based on the review standards applicable to the application type.

**II. CLEARLY STATE FACTORS FOR DECISION**

Unless stated otherwise in this Ordinance, the decision shall reflect the review authority's determination of any contested facts and their application to the applicable standards.

**III. CONFLICTS OF INTEREST**

01. A review authority member shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker.
02. Impermissible violations of due process include but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change; an undisclosed ex parte communication; a close familial, business, or other associational relationship with an affected person; or a direct, substantial, and readily identifiable financial impact on the member.
03. If an objection is raised to a member's participation and that member does not recuse themselves, the remaining members shall, by majority vote, rule on the objection.

**7. APPLICATION REVISION**

- i. An applicant may revise an application during a quasi-judicial public hearing in response to recommendations or suggestions of the review authority.
- ii. The review authority may approve an application modified during a quasi-judicial public hearing provided all changes are properly identified in the motion of approval by the review authority and that any conditions of approval are consented to, in writing, by the applicant.
- iii. In cases where an application has been modified during a quasi-judicial public hearing, the applicant shall submit any necessary site plans, plats, or other documents depicting the modification to the appropriate County staff prior to issuance of any development permit approvals.

**8. DELAY OF DECISION**

The review authority may delay a decision on the application if additional information is requested of the applicant.

**9. RECORD**

## CHAPTER 10. GENERAL APPLICATION REVIEW PROCEDURES

### SECTION 10.10. CONDITIONS OF APPROVAL

- i. A recording may be made of all public hearings and if made, the recordings shall be maintained in accordance with County policy.
- ii. Accurate minutes shall be kept of all proceedings, but a transcript need not be made.

#### D. PUBLIC MEETINGS

Meetings conducted by review authorities prior to the forum in which a decision on the application is made shall be considered public meetings, not public hearings. Public meetings shall be conducted in accordance with the review authority's rules of procedure and the following requirements:

##### 1. PROCEDURE

- i. Public meetings shall require public notification in accordance with Section NCGS 143-318.12 but shall not require prior public notice of any individual applications to be considered during the public meeting, though it may be provided by the County on a case-by-case basis.
- ii. The public meeting shall be open to the public and shall be conducted in accordance with the review authority's adopted rules of procedure for public meetings.
- iii. There is no requirement to allow public comment or testimony during a public meeting, though it may be provided at the Chair or other presiding officer's discretion.

##### 2. VOTING

- i. A decision of a review authority shall be decided by a simple majority of the members present and voting.
- ii. A review authority member shall recuse themselves from voting on an application where:
  - 01. The outcome of the matter being considered is reasonably likely to have a direct, substantial, or readily identifiable financial impact on them or a member of their immediate family; or
  - 02. In cases where there is a close familial, business, or other associational relationship with the landowner or applicant.

### SECTION 10.10. CONDITIONS OF APPROVAL

- A. Conditions shall be limited to those that address conformance of development and use of the site with County regulations and adopted plans and that address the impacts reasonably expected to be generated by the development or use of the site.
- B. Conditions shall be in writing and may be supplemented with text or plans and maps.
- C. No condition shall be made part of the application which:
  - 1. Specifies the ownership status, race, religion, or other characteristics of the occupants of housing units;
  - 2. Establishes a minimum size of a dwelling unit;
  - 3. Establishes a minimum value of buildings or improvements;
  - 4. Excludes residents based upon race, religion, or income; or
  - 5. Obligates the County to perform in any manner relative to the approval of the application or the development of the land.
- D. All conditions of approval shall be consented to, in writing, by all owners of land or applicants subject to the conditions.

### SECTION 10.11. WRITTEN NOTICE OF DECISION

#### A. CONTENT

The notification of a decision on a development application shall be issued in the name of the applicant or applicant's agent, as appropriate, directed to the address(es) identified in the application materials, and shall identify the following:

- 1. The land or matter subject to the application;
- 2. A reference to any approved plans, as appropriate;

## CHAPTER 10. GENERAL APPLICATION REVIEW PROCEDURES

### SECTION 10.12. EFFECT OF DEVELOPMENT APPROVAL

3. The approved use(s), if any; and
4. Any conditions of approval or other applicable requirements.

#### B. TIMING

Except where otherwise stated in this Ordinance, the Administrator shall provide the applicant written notification of a decision or action within 10 business days after a final written decision on a development application.

#### C. COPY OF DECISION

1. In addition to providing the notification of a decision on an application to an applicant, the Administrator shall make a copy of the decision available to anyone who submits a written request prior to the issuance of the decision.
2. The Administrator shall also make a copy of the notice of decision available to the public in the County offices during normal business hours.

### SECTION 10.12. EFFECT OF DEVELOPMENT APPROVAL

Approval of a development application in accordance with this Ordinance authorizes only the particular use, plan for development, or other specific activity approved.

### SECTION 10.13. CONTINUANCE, OR WITHDRAWAL

An applicant may request that a review authority's consideration of a development application be continued or withdrawn by submitting a written request to the appropriate review authority.

#### A. PROCEDURE FOR APPLICATIONS SUBJECT TO A PUBLIC HEARING

1. In cases where an applicant seeks a continuance of an application subject to a public hearing, but public notification of the hearing has not yet been provided, the Administrator shall consider and decide the request.
2. If public notification of the pending public hearing has been provided in accordance with this Ordinance, the request for continuance shall be placed on the public hearing agenda and be considered by the review authority. Additional public notification may be required for a continued application.
3. A request for continuance may be approved in cases where the applicant needs additional time to prepare evidence, secure approval from outside agencies, bring the application into closer alignment with the County's Adopted Comprehensive Land Use Plan or the requirements of this Ordinance, or for good cause, as determined by the review authority.

#### B. WITHDRAWAL

1. An applicant may withdraw an application at any time.
2. If an applicant withdraws an application for the same land after public notification two times within a single calendar year, the same application may not be resubmitted for a period of one year from the date of the second withdrawal.
3. Application fees for withdrawn applications shall not be refunded.

### SECTION 10.14. LIMITATION ON SUBSEQUENT APPLICATIONS

#### A. APPLICATION DENIED

##### 1. LEGISLATIVE DECISIONS

If a development application requiring a legislative public hearing is denied, no application proposing the same or similar development on all or part of the same site shall be submitted within one year after the date of denial unless the review authority approves a reduction in this time limit in accordance with Section 10.14.B, Reduction in Time Limit. For the purposes of this section, "the same or similar development" shall mean:

- i.** The same use type(s) in the same approximate location(s) as the denied application; or
- ii.** The same use type(s) in the same approximate building configuration (e.g., building height, floor area, massing) as the denied application.

**2. QUASI-JUDICIAL DECISIONS**

There is no time limit on resubmitting an application that is denied during a quasi-judicial public hearing provided that any subsequent application may not be similar or substantially similar to the application that was denied, in the sole discretion of the review authority responsible for the decision.

**B. REDUCTION IN TIME LIMIT**

The owner of land subject to this subsection, or the owner's authorized agent, may submit a written request for reduction of the time limit, along with a fee to defray the cost of processing the request, to the Administrator, who shall transmit the request to the review authority. The review authority may grant the request only on a finding by two-thirds of its membership that the owner or agent has demonstrated that:

- 1.** There is a substantial change in circumstances relevant to the issues or facts considered during review of the prior application that might reasonably affect the review authority's application of the relevant review standards to the development proposed in the new application; or
- 2.** New or additional information is available that was not available at the time of review of the prior application and that might reasonably affect the review authority's application of the relevant review standards to the development proposed in the new application; or
- 3.** The new application proposed to be submitted is materially different from the prior application; or
- 4.** The final decision on the prior application was based on a material mistake of fact.