

ARTICLE 15.
DEVELOPMENT PLAN PROCEDURES

Section 1. SITUATIONS WHERE A DEVELOPMENT PLAN IS REQUIRED:

Development plan approval shall be required as provided herein in the following situations: 1) for approval of rezoning to any planned district; 2) for approval of a Conditional Use Permit or Special Permit (See Article 23, Section 3 and Article 33, Section 3); 3) when these regulations require approval of proposed revisions to an existing development plan; 4) when these regulations require approval of a new development plan and; 5) before issuance of a building permit for the development of any parcel in a planned district if a development plan has not been approved or if a previously approved development plan has expired. Building permits shall not be issued and construction of site improvements shall not be started until the required Final Development Plan has been approved as required in these regulations.

Section 2. DEVELOPMENT PLAN REVIEW PROCESS:

The development plan process generally shall consist of two distinct stages including both Preliminary Development Plan and Final Development Plan approvals. Applications fully satisfying all Preliminary Development Plan and Final Development Plan requirements and procedures of these regulations may be submitted with a request for simultaneous processing and consideration. However, such a single-stage development plan review process shall not necessarily result in shortened processing and review times if revisions or refinements are found to be needed to make the development plans satisfactory for approval. Both the Preliminary Development Plan and the Final Development Plan shall be reviewed by the applicable zoning board and approved by the Board and shall serve to establish the general requirements for development of the site. The Preliminary Development Plan may show development options or parameters which shall be further defined at the time of Final Development Plan approval. The Final Development Plan shall serve as a detailed site plan for the development of the site.

Section 3. PRELIMINARY DEVELOPMENT PLAN APPLICATION REQUIREMENTS:

Ten (10) copies of a Preliminary Development Plan shall be submitted to the Johnson County Planning Office at least thirty (30) days before the meeting date of the Zoning Board which will consider the plan. The Preliminary Development Plan shall be drawn at a minimum scale of 1" = 100' and shall contain at least the following information:

- A. Location by common street address and legal description.
- B. Names, addresses and telephone numbers of the applicant, owner, and designer of the plan.
- C. Date and North Arrow.
- D. Existing and proposed contours at no greater than five foot (5') intervals.
- E. The boundary lines of the area included in the development plan, including approximate angles, dimensions and reference to a section corner, quarter-section corner, or point on a recorded plat.
- F. For both the area included in the development plan and the area within two hundred (200) feet of the boundaries thereof:
 - 1. The location, widths and names of all existing or platted streets, railroad and utility rights-of-way, parks and other public open spaces and permanent easements.

2. The location and dimensions of permanent buildings, structures, or houses and natural features, such as woodlots, streams and lakes or ponds, and any land area subject to the 100-year flood.
 3. Locations of existing sewers, water mains, culverts and other underground facilities, indicating pipe sizes, grades, manholes and locations of record.
- G. General location arrangement and dimensions of proposed buildings and structures.
- H. Lists, text or tables indicating:
1. The total floor area of buildings, the area of the site, and the percent of building coverage of the site.
 2. The number of building sites or lots and the number of parking spaces to be provided.
 3. Any other quantities needed to describe or quantify the proposed development or to determine compliance with the zoning regulations.
- I. Preliminary Development Plan Analysis Report which is consistent with the requirements for Preliminary Plat Analysis Reports as provided in Article 26, Section 3 of these regulations and which discusses and describes the general concepts and plans for signage and for controlling outside lighting, stormwater drainage, sanitary waste disposal, traffic impacts and capacities of nearby roads, and the expected minimum stopping sight distances at proposed road access points in accordance with the then applicable County standards when the application is submitted.
- J. Preliminary sketches of building elevations depicting the general style, size and exterior construction materials of the buildings proposed in sufficient detail to exhibit the relative compatibility of the proposed development with the character of the neighborhood.
- K. General location, arrangement and dimensions of parking spaces, width of aisles, width of bays, angle of parking and other similar information (see Article 19, Off-Street Parking Requirements).
- L. General location and dimensions of vehicular drives, entrances, exits, acceleration and deceleration lanes, location and dimensions of pedestrian entrances, exits, walks and walkways.
- M. Location, height and general materials to be used for walls, fences and landscaping.
- N. Indication of proposed schedule, sequencing and location of each development phase if the project is to be developed in phases.
- O. Preliminary Stormwater Quality Management Plan in compliance with the County's Post Construction Stormwater Quality Treatment Regulations.

Section 4. REVIEW OF PRELIMINARY DEVELOPMENT PLANS:

The Zoning Board shall review Preliminary Development Plans at public hearing(s) scheduled and conducted in accordance with the provisions of Article 4 of these regulations with due notice to neighboring owners and published notice as required therein. The Zoning Board shall review the Preliminary Development Plan at such hearing(s) to determine if the Preliminary Development Plan complies with the County regulations, comprehensive land use plan, and development policies and standards. Based on this evaluation, the Zoning Board may take one of the following actions:

- A. Make a recommendation to the Board that the Preliminary Development Plan be approved as submitted.
- B. Make a recommendation to the Board that the Preliminary Development Plan be approved subject to reasonable conditions deemed necessary to:
 - 1. Assure compliance with the County's regulations, development policies, or standards;
 - 2. Assure a proper transition to and protection of adjacent properties;
 - 3. Assure the development would be compatible with the character of the area and the zoning and use of nearby properties; and
 - 4. Assure that the development would be consistent with the purposes and intent for the zoning district.
- C. Continue consideration of the Preliminary Development Plan to give the applicant the opportunity to provide additional information necessary to evaluate the application.
- D. Make a recommendation to the Board that the application be denied because of failure to comply with the County's regulations, development policies, or standards; the intent and purpose of the comprehensive land use plan; or development plan review considerations as provided in Section 11 of this Article.
- E. Fail to make a recommendation due to a vote either for or against the Preliminary Development Plan by less than a majority of the members of the Zoning Board present.

Upon receipt of a recommendation from the Zoning Board, the Board may either approve or deny the application in whole or in part as recommended, or may refer the application back to the Zoning Board for further consideration with a statement of the reasons thereof and with specific instructions or questions about modifications or conditions which may need to be considered during such additional review by the Zoning Board.

In the event the Zoning Board fails to make a recommendation on a Development Plan, the Board may either approve or deny the application in whole or in part, or may either after initial review or on remand, take such further action as it deems necessary.

Approval of the rezoning application by the Board shall amend the zoning map and establish the approved planned zoning district for the property designated in the rezoning resolution, subject to compliance with the Preliminary Development Plan approved by the Board.

Approval of a Preliminary Development Plan by the Board shall establish requirements for the development of the subject property, and shall authorize the applicant to submit a Final Development Plan in accordance with Article 11, Section 5 of these regulations.

Section 5. RELATIONSHIP OF PRELIMINARY DEVELOPMENT PLAN APPROVAL TO FINAL DEVELOPMENT PLAN SUBMITTAL REQUIREMENT:

- A. **Preliminary Development Plan Term – Simultaneously Approved Preliminary and Final Development Plans:** Applications fully satisfying all Preliminary Development Plan and Final Development Plan requirements and procedures of these regulations may be submitted with a request for simultaneous processing and consideration. For purposes of determining a term, if the Preliminary and Final Development Plans were simultaneously approved, then the Preliminary

Development Plan shall not have a term and the Final Development Plan shall have a term in accordance with Subsection 8 of this Article.

B. Preliminary Development Plan Term – Independently Approved Preliminary and Final Development Plans: If the Preliminary and Final Development Plans were not simultaneously approved, then the applicant shall file a Final Development Plan application along with the required documents for at least the first phase of the development within one (1) year after approval of the Preliminary Development Plan by the Board.

1. **Preliminary Development Plan Expiration and Time Extension:** Failure to file a Final Development Plan application in accordance with Subsection 5(B) of this article shall cause the approval of the Preliminary Development Plan to expire, unless no more than two (2) time extensions are requested by the applicant in writing and granted by the Board, as follows:
 - a. the first time extension shall be applied for prior to expiration of the Preliminary Development Plan. Failure to apply for the first time extension prior to expiration of the Preliminary Development Plan shall cause the Preliminary Development Plan to expire;
 - b. the second time extension shall be applied for prior to expiration of the first extension. Failure to apply for the second time extension prior to expiration of the first time extension shall cause the Preliminary Development Plan to expire;
 - c. time extensions shall be limited to a term of up to one (1) year each with the requirement that:
 - 1) the first time extension shall not extend beyond one (1) year after approval of the Preliminary Development Plan by the Board; and
 - 2) the second time extension shall not extend beyond two (2) years after approval of the Preliminary Development Plan by the Board; and
 - d. the Board’s review of the time extensions shall consider whether development standards and the surrounding land use patterns have changed since approval of the Preliminary Development Plan.
2. **Review of Zoning upon Expiration of Preliminary Development Plan:** When a zoning change was approved based on the Preliminary Development Plan and the plan has expired, the case shall be reviewed by the Zoning Board and an action to have the planned zoning changed to the previous zoning classification or some other zoning classification may be initiated by following the procedures provided in Article 4 of these regulations.
3. **Final Development Plan Compliance with Preliminary Development Plan and Corresponding Submittal Deadlines:**
 - a. Final Development Plans substantially complying with the approved Preliminary Development Plan, as provided in Section 8 of this Article, must be submitted to the Planning Office at least fourteen (14) days prior to the Zoning Board meeting at which the Final Development Plan application is requested to be considered.
 - b. Development Plans submitted as Final Development Plans but which do not substantially comply with the approved Preliminary Development Plan pursuant to the requirements set forth in Section 8 of this Article shall be deemed to be and shall be treated as a new or a revised Preliminary Development Plan which must be submitted at least forty-five (45) days prior to the Zoning Board meeting at which the application is requested to be considered.

Section 6. FINAL DEVELOPMENT PLAN APPLICATION REQUIREMENTS:

The Final Development Plan shall consist of a site plan and supporting documents which conform to all requirements and conditions placed on approval of the Preliminary Development Plan by the Board. At the request of the Zoning Administrator, the applicant may be required to submit details of portions of the Final Development Plan at a scale greater than 1" = 100'. The Final Development Plan shall contain the items listed below and all items required in Section 3, Items A through N of this Article, in final form.

- A. Location, number, and direction of illumination and intensity of all exterior lighting fixtures.
- B. Location, quantity and specifications of landscape materials.
- C. Drawings indicating the location, dimensions, materials and design of all signs.
- D. Construction plans for storm water retention and detention facilities, streets, vicinity streets (public or private), storm drainage, and any other facilities to be dedicated to the public in accordance with the approved Preliminary Development Plan and the then applicable County standards.
- E. Final Stormwater Quality Management Plan in compliance with the County's Post Construction Stormwater Quality Treatment Regulations.

Section 7. REVIEW OF FINAL DEVELOPMENT PLANS:

The applicable Zoning Board shall review the Final Development Plan for compliance with the approved Preliminary Development Plan. If the Final Development Plan is found to be in substantial compliance with the approved Preliminary Development Plan, the Zoning Board shall recommend that the Board approve the Final Development Plan. Upon approval of the Final Development Plan by the Board, the applicant shall be authorized to apply for a building permit and zoning permit in conformance with the approved Final Development Plan.

If the Zoning Board or the Board finds that the Final Development Plan is not substantially in compliance with the approved Preliminary Development Plan, the Zoning Board and the Board shall take one of the following actions:

- A. Specify what changes are needed to bring the Final Development Plan into compliance with the approved Preliminary Development Plan and grant conditional approval, subject to the Zoning Administrator verifying that all required changes of the Final Development Plan have been satisfied prior to the issuance of a building permit, or
- B. Disapprove the Final Development Plan application and either:
 - 1. Suggest the changes that may be needed to bring the Final Development Plan into compliance with the approved Preliminary Development Plan and advise the applicant that a Final Development Plan would need to be resubmitted to the Zoning Board and Board for review, or
 - 2. Advise the applicant that the Final Development Plan could not be approved until and unless an amended Preliminary Development Plan were submitted and approved.

Section 8. REQUIREMENTS FOR COMPLIANCE BETWEEN PRELIMINARY AND FINAL DEVELOPMENT PLANS:

- A. Compliance between Preliminary and Final Development Plans:** Final Development Plans shall substantially comply with the Preliminary Development Plan previously approved. The Zoning Administrator shall review the Final Development Plan and determine whether it substantially complies with the approved Preliminary Development Plan. Questions about whether the Final Development Plan substantially complies with the approved Preliminary Development Plan shall be taken to the Zoning Board. These Final Development Plan reviews and determinations of compliance or noncompliance with the approved Preliminary Development Plan shall be conducted in accordance with the following general rules:
1. A Final Development Plan shall be deemed to substantially comply with the approved Preliminary Development Plan if it does not contradict the spirit and intent of the proposed development as evidenced in the approved Preliminary Development Plan and if it is found to be generally consistent with all of the following guidelines for such determinations:
 - a. The proposed gross development density or intensity of use shall not be varied by more than five (5) percent;
 - b. The area of open space shall not be reduced by more than ten percent (10%);
 - c. The open spaces, screening or buffering shall not be varied such that the separation of on-site structures or the separation provided for neighboring properties would be reduced, to less than 80% of the width of the open space from uses that would be provided by full compliance with the approved Preliminary Development Plan or to less than 80% of the width or 80% of the linear length of screening or buffering that would be provided by full compliance with the approved Preliminary Development Plan;
 - d. The location of any building or structure shall not be significantly varied in any direction to such an extent that the new outline of any building or structure would not touch the old outline of the building or structure;
 - e. The floor area proposed for nonresidential use shall not be increased by more than ten (10) percent;
 - f. The total ground area covered by buildings shall not be increased by more than five (5) percent;
 - g. The height of structures shall not be varied by more than five (5) feet; and
 - h. The location of any main entrance driveway shall not be varied by greater than one hundred (100) feet from its previously proposed location along any street frontage; no additional main entrance driveways shall be proposed; and no driveway access shall be proposed to streets onto which driveway access was not previously proposed by the approved Preliminary Development Plan.
 2. A public hearing shall be held on Final Development Plans not in substantial compliance with the approved Preliminary Development Plan. Such hearing shall also consider amending the Preliminary Development Plan and shall follow the same procedures and be conducted in the same manner required for consideration of Preliminary Development Plans.
 3. A public hearing need not be held to consider insignificant modifications in the location and design of streets, facilities for water or disposal of storm water or sanitary sewers or other

public facilities required by the approved Preliminary Development Plan. The burden shall, nevertheless, be upon the applicant to show the County good cause why any variation between the Preliminary Development Plan as approved and the Final Development Plan as submitted for final approval should be approved.

4. In the event a public hearing is not required for Final Development Plan approval and the application for final approval has been filed, together with all drawings, specifications and other documents in support thereof, the County generally shall consider such final plan for approval after prior consideration of the Final Development Plan at a public meeting of the Zoning Board.
- B. Final Development Plan Term:** Approved Final Development Plans shall expire two (2) years from the date of approval if a building permit has not been issued and the start of construction of at least the first phase of development of the approved Final Development Plan has not begun. If the Final Development Plan expires, including Final Development Plans approved independently of a Preliminary Development Plan and Final Development Plans simultaneously approved with an accompanying Preliminary Development Plan, then the Preliminary Development Plan shall also be deemed expired.
- C. Review of Zoning upon Expiration of Final Development Plan:** Upon expiration of the Final Development Plan, the matter shall be reviewed and an action may be initiated to have the planned zoning changed to the previous classification or some other zoning classification by following the procedures outlined in Article 4 of these regulations.

Section 9. MINOR AMENDMENTS TO FINAL DEVELOPMENT PLANS:

Minor amendments such as changes in the location, siting, or character of buildings and structures may be authorized by the Zoning Administrator, if required by engineering or other circumstances not foreseen when the Final Development Plan was approved. Such minor amendments shall be consistent with the provisions of Section 8 above and no amendment authorized by the Zoning Administrator under this Section may increase the size of any building or structure by more than five (5) percent, nor change the location of any building or structure by more than ten (10) feet in any direction, and the amended development shall still comply with the minimum or maximum requirements set forth in these regulations.

All other changes in the Final Development Plan, including changes in the site plan and in the development schedule, must be made under the procedures applicable to the initial approval of a Final Development Plan or as provided in Section 10 of this Article.

Section 10. AMENDMENT OF APPROVED PRELIMINARY OR FINAL DEVELOPMENT PLAN:

Applications for amendment of any approved Preliminary or Final Development Plan shall be submitted and processed in accordance with this Article in the same manner as though a Preliminary Development Plan had not been previously approved for the site. However, only those site development plan elements proposed to be modified or changed need be presented, except where such modifications or changes would have material or substantial impact on the balance of the Preliminary Development Plan or the functioning of the site. For purposes of this Section, material or substantial impact shall be deemed to result from modifications or changes which:

- A. Would be inconsistent with any two (2) or more of the guidelines in Section 8, (A) of this Article, or
- B. Would face the most intense development or uses proposed for the site toward different property line(s) than proposed by the approved Preliminary Development Plan, or

- C. Would relocate any development features or uses proposed within the site by greater than twenty five (25) feet in any direction, or
- D. Would reduce the number of off-street parking spaces within one hundred (100) feet of any proposed building or structure by fifteen percent (15%) or more.

Determinations of material or substantial impact shall be made initially by the Zoning Administrator but such determinations in any event shall also be submitted for review to the Zoning Board.

The applicant shall submit a letter, a drawing when necessary to accurately describe the proposed change(s), and any other supporting documentation which help define the proposed change(s), indicating the scope of the proposed change(s) at least thirty (30) days before the Zoning Board meeting at which the proposed Preliminary Development Plan amendment is requested to be considered, or no later than fourteen (14) days in advance of said Zoning Board meeting in the case of amendments involving only a Final Development Plan.

Section 11. DEVELOPMENT PLAN REVIEW CONSIDERATIONS:

Reviews of Preliminary and Final Development Plans shall consider the following matters:

- A. Considerations relating to traffic safety and traffic congestion:
 - 1. The effect of the site development plan on traffic conditions on nearby streets.
 - 2. The layout of the site with respect to the locations and dimensions of vehicular and pedestrian entrances, exits, drives, walkways, and streets and street rights-of-way as contained within the criteria set forth in Article 30, Section 2 (A) and (B) of these regulations.
 - 3. The arrangement and adequacy of off-street parking facilities to prevent parking or traffic congestion.
 - 4. The location, arrangement and dimensions of truck loading and unloading facilities.
 - 5. The circulation patterns within boundaries of the development and in relationship to approved development plans for other properties in the neighborhood.
 - 6. The surfacing and lighting of off-street parking facilities.
 - 7. The adequacy of existing rights-of-way and those to be dedicated adjacent to the site with respect to the plans and standards for new streets in the County.

- B. Considerations relating to outdoor signs:

The number, location, color, size, height, lighting and landscaping of outdoor advertising signs and structures in relation to the creation of traffic hazards and the appearance and harmony with adjacent developments.

- C. Considerations relating to landscaping:

The location, height and materials of walls, fences, hedges and screening plantings to insure harmony with adjacent developments or to conceal storage areas, utility installations or other development features deemed to be unsightly.

D. Considerations relating to buildings and site layout:

1. The exterior design in relation to adjoining structure heights, bulk, open areas, breaks in the facades, line and pitch of roofs, the arrangement of structure on the parcel, fencing, and relationship to streets.
2. The design and arrangement of buildings with respect to vistas onto the site, from the site, and through the site especially with regard to scenic features or landmarks, whether natural or man-made structures, in the area.

E. Considerations relating to drainage:

1. The effect of the proposed site development in relation to the adequacy of the storm and surface water drainage proposals.
2. Compliance with the then applicable Storm Drainage Standards adopted by the County.
3. Compliance with the then applicable Post Construction Stormwater Quality Treatment Regulations adopted by the County.