

104 SUMMARY OF REVIEW PROCEDURES

104.01 ADMINISTRATION

The review of applications under this Ordinance shall be subject to one of following procedures: (8/20/08)

- A. The Public Hearing or Planning Director Review Administrative Action process as defined and outlined in Section 1300; (8/20/08)
- B. The Legislative Actions process as outlined in Section 1400; or (8/20/08)
- C. The Planning Staff Review process, which shall be conducted as follows: (8/20/08)
 - 1. The applicant shall submit an application and supplementary materials, as required in this Ordinance, to the Planning Department.
 - 2. The application shall be reviewed by appropriate staff members who shall approve, deny, or approve with conditions, the application on the basis of an evaluation of the proposal and the requirements and standards set forth in this Ordinance. (8/20/08)
 - 3. The Planning Director shall notify the applicant in writing of the decision. (8/20/08)
 - 4. Decisions of the Planning Director shall become final unless appealed in writing. The appeal must be received by the Planning Director within 12 days of the date of mailing of the notice of decision, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business. Anyone may appeal the decision. If appealed, the application shall be reviewed by the Hearings Officer pursuant to Section 1300. An appeal stays the proceedings in the matter appealed until the determination of the appeal by the Hearings Officer. (8/20/08)

1301 GENERAL PROVISIONS (8/20/08)

The review of all administrative actions under this ordinance shall be subject to Section 1300. (6/6/02)

1301.01 DEFINITION AND REVIEW PROCEDURE (6/6/02)

- A. An administrative action is a proceeding: (6/6/02)
 - 1. In which the legal rights, duties, or privileges of specific parties under general rules or policies provided under ORS 215.010 to 215.233 and 215.402 to 215.422 or any ordinance, rule, or regulation adopted pursuant thereto, are required to be determined only after a hearing at which specific parties are entitled to appear and be heard; or
 - 2. Identified as a Planning Director decision by this ordinance. (6/6/02)
- B. Hearings Officer, Planning Commission and Board of County Commissioners responsibilities shall be as follows: (6/6/02)
 - 1. The Hearings Officer shall hear all administrative actions identified under Subsection 1301.01(A)(1) and appeals of decisions issued pursuant to Subsection 1301.01(A)(2), except as noted below: (6/6/02)
 - 2. The Planning Commission shall hear applications for Comprehensive Plan amendments; applications filed concurrently with an application for a Comprehensive Plan amendment on the same property; and appeals of Planning Director Interpretations of the Comprehensive Plan. (6/6/02)
 - a. On Comprehensive Plan amendments and concurrent applications on the same property, the Planning Commission shall not render a decision but may forward a recommendation to the Board of County Commissioners. (6/6/02)
 - b. On appeals of Planning Director Interpretations of the Comprehensive Plan, the Planning Commission shall make a decision, which shall be final unless appealed to the Board of County Commissioners. An appeal must be in writing and must be received by the Planning Director within 12 days of the date of mailing of the final written decision of the Planning Commission, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business. (8/20/08)

3. The Board of County Commissioners shall hear applications for Comprehensive Plan amendments; applications filed concurrently with an application for a Comprehensive Plan amendment on the same property; and appeals of Planning Commission decisions on interpretations of the Comprehensive Plan. In addition, the Board of County Commissioners may decide to hear an appeal of a Hearings Officer decision on an interpretation of this Ordinance pursuant to Subsection 1304.01. Board of County Commissioners consideration of Comprehensive Plan amendments and concurrent applications on the same property shall follow Planning Commission consideration of these applications. (8/20/08)

C. Public Hearing Review Procedures: (4/27/88)

1. Planning Commission: An administrative action requiring review by the Planning Commission shall be conducted in accordance with the bylaws adopted by the Planning Commission and the provisions of Section 1300 and Subsection 1402.01(A) and (B). (6/6/02)
2. Hearings Officer/Board of County Commissioners: An administrative action requiring review by the Hearings Officer or Board of County Commissioners shall be conducted in accordance with the rules of procedure adopted by the Hearings Officer or Board of County Commissioners and the provisions of Section 1300. This subsection authorizes the Hearings Officer and Board of County Commissioners to adopt rules of procedure for the conduct of hearings. (6/6/02)
3. At least 7 days prior to the hearing a copy of the staff report for the hearing shall be available for inspection at the Planning Division and copies shall be provided at reasonable cost. (6/6/02)
4. Ex Parte Contact; Hearings Officer: The Hearings Officer shall not: (10/21/99)
 - a. Communicate, directly or indirectly, with any party or their representatives in connection with any issue involved except upon notice and opportunity for all parties to participate; (10/21/99)
 - b. Take notice of any communications, reports, staff memoranda or other materials prepared in connection with a particular case unless the parties are afforded an opportunity to contest the material so noted; nor (6/6/02)
 - c. Inspect the site with any party or his representatives unless all parties are given an opportunity to be present. The Hearings Officer may inspect the site alone but must put the circumstances of the inspection on record. (6/6/02)

5. Ex Parte Contact; Planning Commission and Board of County Commissioners: While every effort must be made to avoid ex parte contact, no decision of the Planning Commission or Board of County Commissioners shall be invalid due to ex parte contact or bias resulting from ex parte contact, as described under Subsection 1301.01(C)(4), if the member of the Planning Commission or Board of County Commissioners receiving the contact: (6/6/02)
 - a. Places on the record the substance of any written or oral ex parte communication concerning the decision or action; and
 - b. Has a public announcement made of the content of the communication, and of the parties' right to rebut the substance of the communication, at the first hearing following the communication where action will be considered or taken on the subject to which the communication related.
6. A communication between county staff and the Hearings Officer, Planning Commission or Board of County Commissioners shall not be considered an ex parte contact for purposes of Subsections 1301.01(C)(4) and (5). (6/6/02)

1301.02 APPOINTMENT OF HEARINGS OFFICER

The Hearings Officer shall be appointed by the Board of County Commissioners to serve at the pleasure of and at a salary fixed by the Board of County Commissioners. When the Board of County Commissioners serves as the Hearings Officer, it may be referred to as the "Board of County Commissioners" rather than the "Hearings Officer". (6/6/02)

1301.03 INITIATION OF ADMINISTRATIVE ACTION

- A. An administrative action, unless otherwise specifically provided for by this ordinance, may only be initiated by order of the Board of County Commissioners, or a majority of the whole Planning Commission or by the petition of the owner, contract purchaser, option holder, or agent of the owner, of the property in question. (6/6/02)
- B. A property owner, contract purchaser, option holder, or agent of the owner shall initiate an administrative action by filing a complete application with the Planning Director on forms provided by the Planning Division, and accompanied with the appropriate application fee. (6/6/02)

1301.04 PREAPPLICATION CONFERENCE (6/6/02)

When an administrative action is to be initiated by a property owner, contract purchaser, option holder, or agent of the owner, the applicant or his authorized representative may meet and confer with the Planning Director in a preapplication conference at which time views may be exchanged as to the requisites for formal application and the feasibility of approval may be discussed. (6/6/02)

1302 NOTICE REQUIREMENTS AND PROCEDURES (6/6/02)

1302.01 PUBLIC NOTICE REQUIREMENTS (6/6/02)

The following notification requirements shall apply to all administrative actions to be considered at a public hearing: (10/21/99)

- A. At least 35 days before the first evidentiary hearing, a copy of the submitted application shall be sent to the recognized and active community planning organization(s), if the subject property lies wholly or partially within the boundaries of such organization(s). (6/6/02)
- B. Written notice of the public hearing shall be sent by mail at least 20 days prior to the first evidentiary hearing to the following: (6/6/02)
 - 1. The applicant;
 - 2. All property owners of record, pursuant to Subsection 1302.03, within: (6/6/02)
 - a. 300 feet of the subject property and contiguous properties under the same ownership if the property is located within an urban growth boundary; or (10/21/99)
 - b. 500 feet of the subject property and contiguous properties under the same ownership if the property is located outside an urban growth boundary and outside an EFU, TBR or AG/F zoning district; or (6/6/02)
 - c. 750 feet of the subject property and contiguous properties under the same ownership if the property is located within an EFU, TBR or AG/F zoning district. (6/6/02)
 - 3. The recognized and active community planning organization(s), if the property which is the subject of the application lies wholly or partially within the boundaries of such organization(s); (6/6/02)
 - 4. Tenants within a manufactured dwelling park when such manufactured dwelling park is the subject of a zone change request; and (6/6/02)
 - 5. The airport sponsor and the Oregon Department of Aviation when required by Subsection 712.08 or 713.07. (6/6/02)
- C. Written notice of the public hearing shall be sent by mail to cities or other entities as prescribed in an applicable dual-interest or urban growth management agreement. (6/6/02)

- D. Notice shall be given by publication in a newspaper of general circulation in the affected area at least 10 days prior to the date of a hearing. (6/6/02)

1302.02 CONTENTS OF WRITTEN NOTICE (6/6/02)

Notices of hearings shall contain the following information:

- A. The date, time and place of the hearing; the application file number; staff representative and telephone number where additional information may be obtained; (6/6/02)
- B. Identification of the property owner and applicant; a description of the subject property by tax map designation of the County Assessor, the address of the property if available and approximate location on county roads; (6/6/02)
- C. An explanation of the nature of the proposed action and the proposed use or uses which could be authorized by the decision; a list of the criteria from this ordinance and the Comprehensive Plan that apply to the application and decision; (6/6/02)
- D. A statement that interested parties may appear and be heard and that failure to raise an issue by the close of the record at or following the final evidentiary hearing, in person or by letter, or failure to provide sufficient specificity to afford the Hearings Officer an opportunity to respond to an issue precludes appeal to the Land Use Board of Appeals based on that issue;
- E. A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings; (6/6/02)
- F. A statement that the application, all documents and evidence relied upon by the applicant, and the applicable criteria are available for inspection at the Planning Division at no cost and copies will be provided at a cost established by the Board of County Commissioners; and (6/6/02)
- G. A statement that at least 7 days prior to the hearing a copy of the staff report for the hearing will be available for inspection at the Planning Division and copies will be provided at a cost established by the Board of County Commissioners. (6/6/02)

1302.03 PERSONAL NOTICE (6/6/02)

For the purpose of personal notification, the records of the Clackamas County Assessor shall be used and persons whose names and addresses are not on file at the time of the filing of the application need not be notified of the action. If a property within the notification area is located outside Clackamas County, the records of the applicable County Assessor shall be used. The failure of a property owner to receive notice shall not invalidate the decision if a good faith attempt was made to comply with Subsection 1302.01(B). (6/6/02)

1303 PUBLIC HEARING REQUIREMENTS AND PROCEDURES (6/6/02)

1303.01 NATURE OF DECISION (6/6/02)

The decision on an administrative action may be to approve the application as submitted, to deny the application or to approve the application with such conditions as may be necessary to carry out the Comprehensive Plan and as provided for in Subsection 1303.09. Approval or denial of a permit shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards and facts set forth. (10/21/99)

1303.02 RIGHTS OF AFFECTED PARTIES (10/21/99)

- A. Right to Participate: Parties entitled to participate in a public hearing on an administrative action include: (10/21/99)
1. Those persons entitled to personal notice pursuant to Subsection 1302.01(B); (6/6/02)
 2. A recognized and active community planning organization; and (10/21/99)
 3. Any interested person or agency. (6/6/02)
- B. Right to Notice of Decision: Notice of the final decision shall be mailed to all interested parties. For purposes of this subsection, an interested party is: (6/6/02)
1. The applicant;
 2. The appellant; (6/6/02)
 3. Anyone providing oral testimony at the Hearings Officer or Board of County Commissioners hearing; (6/6/02)
 4. Anyone who makes a written request for such notice; (6/6/02)
 5. The airport sponsor and the Oregon Department of Aviation when required by Subsection 712.08 or 713.07; and (6/6/02)
 6. The recognized and active community planning organization(s), if the property which is the subject of the application lies wholly or partially within the boundaries of such organization(s). (6/6/02)

1303.03 EVIDENCE

- A. Any documents or evidence relied upon by the applicant in addition to the initial complete application shall be submitted to the Planning Division and made available to the public at least 20 days prior to the first evidentiary hearing. (6/6/02)

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- B. All evidence may be received unless excluded by the Hearings Officer on his own motion. Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conduct of their everyday affairs. Evidence may be received subject to a later ruling regarding its admissibility. (10/21/99)
- C. The Hearings Officer may exclude irrelevant, unduly repetitious, immaterial or cumulative evidence; but erroneous admission of evidence by the Hearings Officer shall not preclude action by the Hearings Officer or cause reversal on appeal unless shown to have substantially prejudiced the rights of a party. When a hearing will be expedited, any part of the evidence may be received in written form. (4/27/95)
- D. All evidence shall be offered and made a part of the record in the case; and, except for matters stipulated to and except as provided in Subsection 1303.03(E), no other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies of excerpts or by incorporation by reference. (6/6/02)
- E. The Hearings Officer may take notice of judicially cognizable facts, and may take notice of general, technical or scientific facts within specialized knowledge. Interested parties shall be notified at any time during the proceeding, but in any event prior to the final decision, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. The Hearings Officer may utilize experience, technical competence and specialized knowledge in evaluation of the evidence presented. (10/21/99)
- F. Every party is entitled to an opportunity to be heard and present and rebut evidence.

1303.04 EXHIBITS (6/6/02)

All exhibits received shall be marked so as to provide identification upon review. Such exhibits may be returned when the period for review has expired, but shall otherwise be preserved by the Planning Director. (6/6/02)

1303.05 RECORD OF HEARING (6/6/02)

A verbatim record of the proceeding shall be made by written, mechanical or electronic means, which record need not be transcribed except upon review on the record. (6/6/02)

1303.06 LIMITS ON ORAL TESTIMONY (6/6/02)

The Hearings Officer may set consistent, reasonable time limits for oral presentations to the end that parties are encouraged to submit as much evidence as possible in writing prior to the hearing. (4/27/95)

1303.07 CHALLENGE TO HEARINGS OFFICER (6/6/02)

A party may challenge the Hearings Officer on the grounds of Subsection 1301.01(C)(4), or that such Hearings Officer has a legal conflict of interest. A written challenge must be delivered by personal service to the Planning Director and the Hearings Officer not less than 3 days preceding the time set for public hearing. A challenge and the decision thereon by the Hearings Officer shall be entered in the record of the action. (6/6/02)

1303.08 POSTPONEMENTS, CONTINUANCES AND OPEN RECORD PERIODS (6/6/02)

- A. A postponement is a request by the applicant to have county processing of an administrative action suspended, either indefinitely or to a date certain. Where a date certain for an additional hearing is established during a hearing, the request shall be considered a continuance rather than a postponement. (6/6/02)
- B. The applicant may request a postponement of an administrative action at or prior to the hearing. Any request for a postponement shall be submitted in writing. A postponement may be granted by the Planning Director if such request is received prior to the hearing, or by the Hearings Officer if requested during the hearing. The applicant may request a continuance of an administrative action during the hearing. A postponement or continuance shall not be granted exceeding 273 days from the date of the first scheduled public hearing or, if a hearing has not been scheduled, from the date a complete application was submitted. (6/6/02)
- C. A hearing on an application may be continued and no additional notice need be given by the Hearings Officer if the hearing is adjourned to a date certain, unless so ordered. Unless there is a continuance, the record shall be kept open for not less than 7 days following the hearing if so requested at the hearing. Any party may request during the hearing that the record be left open for longer than 7 days. However, the record shall not be left open for more than 273 days from the date of the first scheduled hearing. (6/6/02)
- D. Only one postponement shall be granted. (6/6/02)
- E. A request by an applicant to resume county processing of a postponed application shall be made in writing. If such a request is not received within the time period established by Subsection 1303.08(B), the application shall be considered withdrawn. (6/6/02)

1303.09 CONDITIONS OF APPROVAL (6/6/02)

Approval of any administrative action may be granted subject to conditions. The following limitations shall be applicable to conditional approvals:

- A. Conditions shall be fulfilled within the time limitations set forth in the approval thereof, or, if no time is set forth, within a reasonable time.

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- B. Such conditions shall be reasonably calculated to fulfill public needs emanating from the proposed land uses as set forth in the application, in the following respects: (6/6/02)
1. Protection of the public from the potentially deleterious effects of the proposed use; or
 2. Fulfillment of the need for public service demands created by the proposed use.
- C. Except as provided for in Subsection 1305.01(L), changes or alterations of conditions shall be processed as a new administrative action. A change or alteration will be considered only if the applicant demonstrates: (10/21/99)
1. A change in circumstances substantially material to the application, or
 2. A change in the zoning of the property, or adjacent property, that substantially affects the merits of the application. (4/27/95)
- D. Such conditions may be set forth in a contract executed between the Board of County Commissioners, acting by and through its Chairman, and the property owner and any contract purchasers. If a contract is required, no building permits for the use applied for shall be issued, nor shall the use applied for be deemed approved, until the properly executed contract is filed with the County Clerk. Such contract shall be properly signed and executed within 30 days after approval with conditions, provided, however, that the Board of County Commissioners may grant reasonable extensions in cases of practical difficulty. Such contract shall not restrict the power of subsequent administrative actions with or without conditions. In return for the granting of the application, the property owner, contract purchasers and their heirs, successors and assigns shall perform those conditions set forth therein. Said contract shall be enforceable against the signing parties, their heirs, successors and assigns by Clackamas County by appropriate action of law or suit in equity. (6/6/02)
- E. Failure to fulfill any condition within the time limitations provided shall be grounds for initiation of an administrative action by the Planning Director to rescind the permit or approval pursuant to Subsection 1305.01(M). (6/6/02)
- F. A bond, in a form acceptable to the Planning Director, or a cash deposit from the property owners or contract purchasers in such an amount as will assure compliance with the conditions may be required. Such bond shall be posted at the same time the contract containing the condition(s) is filed with the County Clerk. (6/6/02)

1303.10 REFILING APPLICATION (6/6/02)

If an application for an administrative action is denied, an applicant may refile pursuant to Subsection 1305.02(H). (6/6/02)

1304 FINAL DECISION AND APPEAL PROCEDURES (8/20/08)

1304.01 FINAL DECISION (8/20/08)

The decision of the Hearings Officer shall be the final decision of the county, except, in the case of an application for an Interpretation, the Board of County Commissioners (BCC) may review the decision of the Hearings Officer on appeal. The appeal must be in writing and must be received by the Planning Director within 12 days of the date of mailing of the final written order of the Hearings Officer, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business. If the BCC determines that it will hear an appeal of an Interpretation, notice of the hearing shall be given pursuant to Subsection 1302.01. (8/20/08)

1304.02 APPEAL PERIOD (6/6/02)

The county's final decision on an administrative action may be appealed to the Land Use Board of Appeals (LUBA) within 21 days of the date of mailing of the final written order. If a request for a review of an interpretation by the Hearings Officer is filed with the Board of County Commissioners (BCC), the 21-day LUBA appeal period shall commence on mailing of the final written order of the BCC, if the BCC accepts review, or mailing of a denial of the request for review. (6/6/02)

1305 ADMINISTRATIVE RESPONSIBILITY OF THE PLANNING DIRECTOR (8/20/08)

1305.01 DUTIES

The Planning Director, subject to the direction of the Board of County Commissioners, shall perform the following duties: (6/6/02)

- A. Schedule and assign cases for initial hearing and review;
- B. Conduct all correspondence of the Hearings Officer; (10/21/99)
- C. Give notice as required by this ordinance; (6/6/02)
- D. Maintain dockets and minutes of all initial hearings;
- E. Compile and maintain all necessary records, files and indexes;
- F. Maintain a filing system for docket control of all matters scheduled for hearing or review; (6/6/02)
- G. Enter into the record all continuances, postponements, dates of giving notice and a summary of all actions taken by the Hearings Officer or other persons pursuant to this ordinance; (6/6/02)
- H. Enter into the minutes the decision upon each matter initially heard and the reasons for the decision;
- I. Serve copies of orders reduced to writing by mail upon any party requesting the same at a fee established by the Board of County Commissioners. There will be no fee charged for such requests by recognized and active community planning organizations; (10/21/99)
- J. Reduce orders of the Hearings Officer to writing and file same within a reasonable time; and (10/21/99)
- K. Decide all questions of interpretation or applicability to specific properties of any provision of the Comprehensive Plan or this ordinance. An application for an interpretation shall be processed pursuant to Subsection 1305.03. (6/6/02)
- L. Review minor modifications to applications, or conditions thereto, which have been approved under this Ordinance. A modification shall be considered minor if it:
(8/20/08)
 - 1. Is consistent with the prior approval;

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2. Is consistent with all ordinance provisions in effect at the time the modification request is submitted; and (6/6/02)
3. Does not result in any of the following:
 - a. A change in the type of use (e.g. commercial, industrial, community service); (6/6/02)
 - b. An increase of greater than 25 percent of the original approved building floor area; (5/22/03)
 - c. An increase of greater than 25 percent of the original approved lot coverage; (5/22/03)
 - d. An increase in the density of development (residential or recreational uses), or intensity of use, as demonstrated by a change in occupancy rating requiring substantial modifications to structures; (6/17/87)
 - e. An increase in traffic congestion or use of public facilities;
 - f. A reduction in approved open space;
 - g. A reduction of offstreet parking and loading spaces, except as provided under Subsection 1007.07; or (6/6/02)
 - h. A reduction in required pavement widths or a change in major access locations, except as required by the county. (6/6/02)
- M. Initiate a public hearing before the Hearings Officer for revocation of a prior approval of an administrative action when there is a violation of conditions attached to the previous approval sufficient to merit such revocation. Revocation requests shall be processed pursuant to Section 1300. (6/6/02)

1305.02 PLANNING DIRECTOR REVIEW (6/6/02)

- A. Administrative actions that require Planning Director review shall be subject to the provisions of this subsection. However, a applicant for an administrative action that is subject to Planning Director review may request that such administrative action be heard directly by the Hearings Officer pursuant to Sections 1301 through 1304. (6/6/02)
- B. Prior to the decision, a copy of the application shall be sent to the recognized and active community planning organization(s), if the subject property lies wholly or partially within the boundaries of such organization(s). (6/6/02)

- C. Written notice of the application shall be provided to cities or other entities as prescribed in an applicable dual-interest or urban growth management agreement. (6/6/02)
- D. A minimum of 20 days prior to the decision, written notice of the application shall be provided to the airport sponsor and the Oregon Department of Aviation when required by Subsection 712.08 or 713.07. (6/6/02)
- E. The Planning Director may approve the application as submitted, approve the application with conditions or deny the application. The Planning Director shall prepare written findings justifying the decision. (6/6/02)
- F. The Planning Director shall provide notice of the written decision to: (6/6/02)
 - 1. The recognized and active community planning organization(s), if the subject property lies wholly or partially within the boundaries of such organization(s); (6/6/02)
 - 2. The applicant; (6/6/02)
 - 3. Property owners of record pursuant to Subsections 1302.01(B)(2) and 1302.03; (6/6/02)
 - 4. The airport sponsor and the Oregon Department of Aviation when required by Subsection 712.08 or 713.07; and (6/6/02)
 - 5. Cities or other entities as prescribed in an applicable dual-interest or urban growth management agreement. (6/6/02)
- G. Appeals:
 - 1. The decision of the Planning Director shall become final unless appealed in writing. The appeal must be received by the Planning Director within 12 days of the date of mailing of the notice of decision, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business. (8/20/08)
 - 2. If appealed, the application shall be reviewed by the Hearings Officer pursuant to Section 1300. (6/6/02)
 - 3. An appeal to the Hearings Officer stays proceedings in the matter appealed until the determination of the appeal. (6/6/02)

H. Refiling: If an application for an administrative action is denied, or a land use permit is revoked pursuant to Subsection 1305.01(M), an applicant may refile for consideration of the same or substantially similar application only if: (8/20/08)

1. The Planning Director finds that one of the following circumstances renders inapplicable all of the specific reasons for denial: (6/6/02)

a. A change has occurred in this ordinance, the Comprehensive Plan or other applicable law which is material to the application; for the purposes of this provision, “change” includes amendment to the applicable provisions or a modification in accepted meaning or application caused by an interpretation filed pursuant to Subsection 1305.01(K); (6/6/02)

b. A mistake in facts was considered by the hearings authority which was material to the application; (10/21/99)

c. There have been changes in circumstances resulting in new facts material to the application; (10/21/99)

d. A change has occurred in the zoning of the property, or adjacent property, that substantially affects the merits of the application; or (10/21/99)

e. There have been substantial changes in the surrounding area, or on the subject property, such as availability of services or improvements to public facilities, that affect the merits of the application. (10/21/99)

2. Except as provided in Subsection 1305.02(H)(1) a new application cannot be filed until two years after either final denial of an application by the county or revocation of a land use permit. (8/20/08)

I. Postponements: The applicant may request a postponement pursuant to Subsection 1303.08. (6/6/02)

J. Reissuing a Decision: The Planning Director may reissue a Planning Director decision as a result of a clerical error, a misstatement of facts or the erroneous imposition or omission of conditions of approval. A decision may not be reissued after the expiration of the appeal period. Notice of the reissued decision shall be given in the same manner as notice of the original decision. (8/20/08)

1305.03 INTERPRETATIONS (6/6/02)

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- A. The Planning Director has the authority to interpret the Comprehensive Plan and this ordinance and their applicability to specific properties, except where such authority is specifically granted by this ordinance to the Hearings Officer. (6/6/02)
- B. An application for an Interpretation shall be processed pursuant to this subsection. (6/6/02)
- C. Anyone may initiate an application for an Interpretation, except that an application for an Interpretation of the applicability of this ordinance to a specific property may only be initiated by those parties identified in Subsection 1301.03(A). (6/6/02)
- D. A complete application shall include: (6/6/02)
 - 1. A completed land use application on a form provided by the Planning Division; (6/6/02)
 - 2. Identification of the provision(s) for which an Interpretation is requested; (6/6/02)
 - 3. Identification by tax map designation of the County Assessor of the specific property, if any, to which an Interpretation relates; and (6/6/02)
 - 4. A detailed description of any proposed use, specific circumstances or other factors necessary to allow the Planning Director to make an Interpretation. (6/6/02)
- E. A minimum of 15 days prior to the issuance of the Planning Director's decision, a copy of the submitted application shall be sent to all recognized and active community planning organizations whose boundaries contain property to which an Interpretation could be applicable. (6/6/02)
- F. The Planning Director shall provide notice of the written decision to the applicant, all recognized and active community planning organizations whose boundaries contain property to which an Interpretation could be applicable, and cities or other entities as prescribed in an applicable dual-interest or urban growth management agreement. In addition, if an Interpretation relates to the applicability of this ordinance to a specific property, notice of the written decision shall be provided to property owners of record pursuant to Subsections 1302.01(B)(2) and 1302.03. (6/6/02)

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- G. The decision of the Planning Director shall become final unless appealed in writing. The appeal must be received by the Planning Director within 12 days of the date of mailing of the notice of decision, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business. Anyone may appeal the decision. If appealed, the application shall be reviewed by the Hearings Officer pursuant to Section 1300. An appeal stays the proceedings in the matter appealed until the determination of the appeal by the Hearings Officer. (8/20/08)
- H. Interpretations shall be subject to Subsections 1305.02(H) through (J). (6/6/02)
- I. An application may not be filed for an Interpretation when the specific question raised in the application has already been decided through another administrative action. A question shall not be deemed to have been decided in the fact circumstances in the previous administrative action differ from those presented in an Interpretation application. (6/6/02)