



# Benton County, AR

## Planning Department

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**To:** Hon. Susan Anglin – Benton Co. Legislative Committee Chair  
**Through:** County Judge – Barry Moehring  
**From:** Director of Planning – Taylor Reamer  
**Date:** 7/3/2018  
**Re:** Proposed Revisions to the ‘Planning and Development Regulations of Benton County’

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The following revisions to the ‘Planning and Development Regulations’ have been reviewed and approved by the Planning Board. Staff is now requesting that these revisions be considered by the Legislative Committee for formal submittal to the Committee of the Whole, and ultimately, the Quorum Court for formal adoption by Ordinance.

- Chapter 2 Revisions
  - Page 2-1; changed to ‘stipulations and requirements’ from ‘the recommendations’
  - Page 2-1; re-worded language to speak directly to newly defined ‘Decision Letter’
  - Page 2-2; revised language to enforcement provisions to reflect greater legal options
  - Page 2-2; changed ‘citizen(s)’ to ‘applicant(s)’ to reflect current definition of ‘applicant’
  - Page 2-3; after initial one and two-year terms, increased second full term **from** two years **to** four years.
  - Page 2-4; added language to reinforce current definition of ‘applicant’ under Section 3.4.
  - Page 2-5; format changes to Board of Appeals procedures
  - Page 2-5; added ‘legal’ to ‘property owner’
  - Page 2-5; changed from 8 to 15 the number of survey plans / site plans for Public Hearing
  - Page 2-5; clarify timeline for setting a Board of Appeals hearing date
  - Page 2-5; clarify timeline for providing public notice for Board of Appeals hearings
  - Page 2-6; added language ‘provided for in’ reference – penalties section
  
- Chapter 6 Revisions
  - Page 6-2; Clarified existing uses and criteria for ‘Development Exempted from Site Plan Review’
  - ~~Page 6-12; Added provision for professionally designed / produced site plans during Site Plan Review.~~
  - Page 6-13; Added parking requirement for newly established use – ‘Self-Service Storage Facility’

- Page 6-14: Revised parking requirement to remove ‘+’ symbol, and thus provide option for applicant rather than cumulative parking.
- **Page 6-17: Added ‘Self Service Storage Facility’ to the list of land uses**
- Page 6-23; Removed language regarding ‘applicable design guidelines’, as there are no such provisions
- Page 6-24 + 6-25; Planning Board Review Process
  - item 3 – File Application; additional size print requirement, clarified file type for E-submission
  - item 5 – Subdivision; added ‘lot or’ to tract
  - item 6 – Notice; revised to clarify that the applicant is sending notice, not Staff.
  - item 7 – Planning Board Review; clarified various language items to reflect current Board protocols.
  - item 8 – Public Comment; clarified various language items to reflect current Board protocols.
  - item 9 – Plan Acceptance; revised to read ‘Site Plan Approval or Denial’ to reflect current protocols.
    - Revised language to speak more clearly to conditional approvals, Board vs. Staff review process.
    - Added language to reference the ‘Decision Letter’.
  - item 10 – Reasons for Rejection; revised to read ‘Reasons for Denial’
  - item 11 – REMOVED – RECORDING APPROVED SITE PLAN
    - Reflect fact that Site Plans are typically not recorded, only plats.
  - item 11 – REPLACED – DECISION LETTER
    - Referenced in current regulations, simply numbered to establish order in process.
  - item 12 – ADDED – FINAL SITE PLAN SIGNATURE
    - Referenced in current regulations, simply numbered to establish order in process.

**CHAPTER II – ADMINISTRATION AND ENFORCEMENT**

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- §2.1 – ADMINISTRATION AND ENFORCEMENT**
  - §2.2 – BOARD OF APPEALS**
  - §2.3 – BOARD OF APPEALS PROCEDURES**
  - §2.4 – APPEALS TO THE DECISION OF THE BOARD OF APPEALS**
  - §2.5 – COMPLIANCE AND INSPECTIONS**
  - §2.6 – PENALTIES**
  - §2.7 – AMENDMENTS TO THIS ORDINANCE**
  - §2.8 – AUTHORITY TO ASSESS FEES**
  - §2.9 – MODIFICATION, VARIANCE, OR WAIVER**
  - §2.10 – RESERVED**
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**§2.1 – ADMINISTRATION AND ENFORCEMENT**

Pursuant to A.C.A §14-17-203, the Benton County Planning Board was established in accordance with Ordinance No. 78-5 on June 21, 1978 with subsequent amendments by Ordinance 82-18 approved on September 7, 1982 and Ordinance 1978-05.

**A. Administration**

- i. The Benton County Planning Board shall be charged with the responsibility for the administration of this Ordinance. The Planning Board may adopt by-laws or internal rules and regulations as it deems necessary in order to ensure an orderly and systematic interpretation and administration of this Ordinance so as to serve the public health, safety, welfare, and general well-being of the citizens of Benton County.
- ii. The Planning Board may develop a summarization of the Planning and Development regulations to make ~~the recommendations stipulations and requirements~~ more accessible to the property owner/applicant. In their consideration of a development application, the Planning Board will take into account recommended 'Standard Conditions of Site Plan Approval' (Appendix K) ~~and additional project specific special conditions or amendments thereto attached to the Decision Letter and the approved site plan~~ Further, the Planning Board may stipulate, or condition their approvals, which shall be formalized in the Decision Letter, and where applicable, shown on a final approved site plan. The Planning Board shall have no authority to supersede the Planning and Development Regulations of Benton County.
- iii. In addition to the standards established by this Ordinance, all development shall comply with any other regulations or special requirements of the state, local or federal agencies.
- iv. Appeals to administrative or Planning Board decisions and land use interpretations shall be reviewed by the Board of Appeals.
- v. Any appeal concerning roads shall be appealed directly to circuit court in accordance with Arkansas State Code A.C.A. §14-17-209.

**B. Enforcement**

It shall be the duty of the County Judge to enforce this Ordinance and address any violations of the Ordinance and/or the rules established by this Ordinance or otherwise adopted or established pursuant thereto. The enforcement by the County Judge may be carried out by the County Judge, by any County employee acting on his behalf or on behalf of the County, or by any other governmental official, employee or agent acting on his behalf or on behalf of the County. Actions for enforcement are valid if brought in the name of the County Judge, the County Planning Board, or the County, and no proof of specific authorization to bring an enforcement action shall be required. Enforcement actions may also be brought in the name of the State of Arkansas where appropriate by the Prosecuting Attorney (or his or his deputy) having authority in Benton County and no specific authorization for such shall be required.

The enforcement authorized herein may be pursued in the civil courts, through injunction or otherwise; or through the criminal courts, including, but not limited to such enforcement being based on the provisions of this Ordinance providing that a violation thereof shall subject the violator to punishment under the provisions of § 1-9 of the Code of Ordinances of Benton County.

Additionally, in accordance with §14-17-207(f) of the Arkansas Code any individual aggrieved by a violation of this Ordinance and/or the rules established by this Ordinance or otherwise adopted or established pursuant thereto may request an injunction against any individual or property owner in violation or may mandamus any official to enforce the provisions of the Ordinance.

The County Judge and/or those persons, employees, or agents acting on his behalf shall have the authority to issue a document stating that a person or entity is in violation of the Ordinance and/or the rules established by this Ordinance or otherwise adopted or established pursuant thereto (a "Notice of Violation"). Such document may be by letter or otherwise and may be delivered personally or by mail, electronic or otherwise. Such notices are only tools to be used in encouraging compliance and it is not a requirement that a Notice of Violation be given before an enforcement action provided for herein can commence or otherwise.

~~It shall be the duty of the Benton County Planning staff to enforce this Ordinance and to bring any violations or lack of compliance herewith to the attention of the County's Prosecutor's Office.~~

~~In accordance with A.C.A §14-17-207(f) any individual aggrieved by a violation of any such plan or Ordinance may request an injunction against any individual or property owner in violation or may mandamus any official to enforce the provisions of the Ordinance.~~

**Commented [KG1]:** Language provided by County Attorney – 02/01/2018

**§2.2 – BOARD OF APPEALS**

A Board of Appeals is hereby established to provide ~~citizens~~applicants the opportunity to appeal any administrative or Planning Board ~~division decision~~ on matters pertaining to this Ordinance. For the purposes of this section, 'applicant(s)' mean the person or persons making an application to the County for approval of any type of review subject to this Ordinance (see definition for APPLICANT, Chapter 3, Sec. 3.4). The Board of Appeals shall have such powers and duties as are provided by law or Ordinance. The Board of Appeals shall have the following functions:

**Commented [KG2]:** Consider changing to 'applicants'. See 12/29/2017 E-mail from G. Spence.

## 1. Appeals of Interpretations

To hear appeals from administrative decisions with respect to the enforcement and application of the Ordinance and affirm or reverse, in whole or part, the administrative decision. This may include alleged error, misinterpretation, oversight, or other means of incorrectly applying the provisions of this Ordinance including the provisions of the Flood Damage Prevention program and the provisions of the International Building Code (IBC) as determined by their respective chapters.

## 2. Land Use Determinations

To determine, in cases of uncertainty, the classification of any land use not specifically enumerated in this Ordinance.

### A. Membership and Terms

The Board shall consist of seven (7) members who shall be residents of Benton County, appointed by the County Judge, and confirmed by the Quorum Court for a term of two years, where four (4) members shall initially be appointed for the full two (2) years and the remaining three (3) members shall initially be appointed for one (1) year. Thereafter all members shall be appointed by the County Judge and confirmed by the Quorum Court for terms of ~~two-four~~ (4.2) years each. No member shall serve more than two (2) consecutive full terms.

To the extent practicable and feasible, the Board shall include members with the following background and experience:

- i. One (1) Quorum Court member
- ii. One (1) attorney
- iii. One (1) professional engineer licensed in Arkansas
- iv. One (1) professional architect or landscape architect
- v. One (1) city, county or regional planner
- vi. One (1) realtor or developer, and
- vii. One (1) master builder or a person with ten (10) or more years of experience in construction or supervision of construction of buildings.

### 1. Alternate Members

Three (3) alternate members, who shall be residents of the County, shall be appointed by the County Judge and confirmed by the Quorum Court to serve in the absence of, or disqualification of, the regular members. The first two (2) alternates appointed shall serve for terms of two (2) years and the third for one (1) year. Thereafter, all alternates shall be appointed for ~~two-four~~-year terms.

### 2. Removal and Vacancies

All members and alternates may be removed for cause by the County Judge, upon written charges after public hearing. The vacancy of any member or alternate member shall be filled by appointment of the County Judge and confirmation by the Quorum Court for the unexpired term only.

**Commented [KG3]:** Presently, Position #'s 2, 5, 7, and 'alternate 3' were appointed to one (1) year terms (9/22/2016), and were then re-appointed on 9/28/2017 for another, two-year term. On 9/28/2019, Position #'s 2, 5, 7, and 'alternate 3' will 'term-out'.

Presently, Position #'s 1, 3, 4, 6, and 'alternates 1 and 2' were appointed to two (2) year terms (9/22/2016), and are due to be re-appointed on 9/22/2018. Unless the terms for the second appointment are extended, Position #'s 1, 3, 4, 6, and 'alternates 1 and 2' will 'term-out' on 9/22/2020

**Commented [KG4]:** See with Comment assoc. w/ Section 2.2.A

## B. Organization

### 1. Officers and Duties

The Board of Appeals shall elect a Chair and Vice-Chair from among its membership. The Chairperson, or in his/her absence, the Vice Chairperson, shall preside at all meetings.

### 2. Meetings

Meetings of the Board of Appeals shall be held on a regular schedule. The Chair, or in his absence, the Vice-Chair, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Appeals shall be open to the public. Agenda items requiring a public hearing shall require sufficient notice as required by law.

### 3. Required Attendance

If a member fails to attend three (3) consecutive meetings or misses 20 percent (20%) or more of the meetings held during a calendar year, the County Judge, upon recommendation by the Chair, may declare the position vacant.

### 4. Quorum

A quorum of the Board of Appeals shall consist of four (4) members. The concurring vote of four (4) members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter before the Board of Appeals.

### 5. Office, Staffing, and Records

- i. Office – The office of the Board of Appeals shall be the Planning Department or as may be otherwise designated by the County Judge.
- ii. Staffing – The Planning ~~Department~~ Division must provide the Board of Appeals with staff assistance necessary to enable it to discharge its duties including arrange for its meetings, and perform such other duties, consistent with the provisions of this chapter, as the adopted rules of the Board of Appeals require.
- iii. Records – The Planning ~~Department~~ Division shall be the custodian of the records of the Board of Appeals including all agendas, minutes, and other documents pertaining to the business of the Board.

Commented [KG5]: Reflects Departmental structure

Commented [KG6]: Reflects Departmental structure

## §2.3 – BOARD OF APPEALS PROCEDURES

### A. Board of Appeals Application

A written appeal must be filed by the applicant within thirty (30) days of the decision sought to be appealed. For the purposes of this section, 'applicant(s)' means the person or persons making an application to the County for approval of any type of review subject to this Ordinance (see definition for APPLICANT, Chapter 3, Sec. 3.4). The appeal must include the following materials:

1. ~~1.~~ A completed copy of a Board of Appeals application, including:-
  - a. Notarized Owners affidavit (Owner, lessee, prospective purchase or legal representation must sign the application.
  - b. A letter from the legal property owner giving permission to the applicant to represent the property, if applicable.
2. Cover letter addressed to the Board of Appeals explaining ~~what relief or action is sought~~ and the justification for justifying the request.
3. ~~Eight Fifteen (15)~~ Eighteen (18) sets of survey plans / site plans ~~showing the lot size, location of all structures, existing and proposed, setbacks, parking and loading facilities, and septic system, if applicable. Such plan shall be the same as that required of the original application, as submitted for the Planning Board Public Hearing should one have been required.~~
4. Photos of property and area of concern (as applicable) and other supplemental information as required.

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**Commented [KG7]:** 7 Planning Board members, 5 for Staff, 1 each for the QC Liaison, the public, and the media.

**B. Appeals Procedures**

1. Setting a Date – Upon filing of an appeal, the Planning staff shall schedule a hearing date, which shall be held within thirty (30) days of the application filing date. If the thirty (30) day scheduling period ends on a day when County Offices are closed, then the deadline for scheduling the requisite hearing date shall be end-of-business the next day County Offices are open.
2. Notice – ~~Public notice shall be served~~~~The hearing shall be held within thirty (30) days of the application, preceded by~~ at least fifteen (15) days' prior to the scheduled hearing date. notice shall be served via by USPS certified mail, with return receipt, to by the appellant applicant, and at the appellant's applicant's expense, to all landowners property owners within a 500 foot radius from of the property line, based on current records of the Assessor's database, via certified mail with return receipt. Such notice shall be sent no less than fourteen (14) days prior to the scheduled public hearing. If the fifteen (15) day noticing period ends on a day when County Offices are closed, then the deadline for public noticing being served shall be end-of-business the next day County Offices are open.
3. Public Hearing Sign: Public Hearing Sign shall comply with §4.8 of this ordinance.
4. The Board's decision shall be final, administratively.

**Commented [KG8]:** To be consistent with BOA By-Laws, sec. 3.1.2

**Commented [KG9]:** Added to account for this scenario, based on advice from County Attorney.

**Commented [KG10]:** Reflects current process for notice and proof of notice.

**Commented [KG11]:** Added to account for this scenario, based on advice from County Attorney.

**§2.4 – APPEALS TO THE DECISION OF THE BOARD OF APPEALS**

1. County Quorum Court – A decision of the Board of Appeals may be appealed to the County Quorum Court prior to an appeal to a court of record. The County Judge shall be the chair of the Board of Administrative Appeals but shall vote only in the event of a tie. The County Quorum Court shall determine the number of Quorum Court members who shall sit on such an Appeal.
2. Court of Record – All appeals to the decision of the Board of Appeals shall be subject to appeal to a court of record having jurisdiction.

**§2.5 – COMPLIANCE AND INSPECTIONS**

- A. **Compliance: Conditions Met as Precursor to certificate of occupancy** – No certificate of occupancy (CO) shall be issued for any development unless all conditions of approval have been met.
- B. **Inspection** – The enforcement entity and/or members of the Benton County Planning Board shall have the right to enter any development for purposes of examination in order to enforce the letter and spirit of this Ordinance. The right to enter extends from the applicant’s authorization agreed to by making an application which shall be in effect through confirmation of compliance with any conditions so applied by decision or with this Ordinance.

**§2.6 – PENALTIES**

A violation of this Ordinance or failure to comply with the provisions herein or failure to obey a lawfully directed communication from County officials or the Planning Board shall subject the specified person, firm, corporation, limited liability company, partnership, entity, or other private or personal combination, without restriction, to penalties ~~consistent with~~ provided for in §1-9 of Benton County Code of Ordinance.

**Commented [KG12]:** Recommendation by County Attorney on 02/01/2018

**§2.7 – AMENDMENTS TO THIS ORDINANCE**

This Ordinance may be amended in strict accordance with the provisions of A.C.A. §14-17-207-Adoption, Amendment, and Enforcement of official plans and implementing Ordinances.

**§2.8 – AUTHORITY TO ASSESS FEES**

- A. **Establishment of Fee Schedule:** The Benton County Planning Board shall establish a schedule of fees which may be from time to time reviewed and modified by the Planning Board and subsequently approved by the Benton County Quorum Court.
- B. **Fee to be Paid in Full:** Until all applicable fees, charges and expenses have been paid in full by the applicant, no action shall be taken on any application or appeal.
- B. **Third Party Consultant Review Fees:** The Planning Board reserves the right to retain professional services including legal, architectural, engineering, land surveying, and such other consulting services in appropriate circumstances to protect the health, safety, and environmental concerns. Independent engineers or other consultants may be retained for commercial or industrial large scale developments, subdivisions, planned unit developments, development master plans, or any other projects involving significant drainage, transportation, or other complex technical issues. Requests for review fees may only be made by a vote of the Planning Board in a regular meeting. Planning staff may use specifically programmed funds for consultants for the same purpose if an independent assessment of a technical report or data submitted by a consultant is necessary.

The Planning Board shall be reimbursed by the applicant for the reasonable fees and expenses of such consultants, and each application for a development review under this Ordinance hereunder shall contain an agreement by the applicant to that effect regardless of the decision on the project. The cost of special technical reviews shall not be onerous, exorbitant, unreasonable, or in excess of what the



market would bear for such services.

#### **§2.9 –MODIFICATION, VARIANCE, OR WAIVER**

- A. **Waivers and Modifications:** Waivers and modifications are essentially the same action and may be taken by the Planning Board by regular vote as part of an existing hearing by the Board. Waivers and modifications are applicable to non-dimensional provisions of this Ordinance which, by the scrutiny of the Board and which may be informed by supporting evidence by staff or other experts, can be prudently and judiciously modified or waived to the extent reasonable and necessary to provide relief to the applicant as part of their development request. Waivers and modifications may be requested by an applicant via a formal request in writing that specifies the provision of the regulations where relief is sought and a justification for the request. Consideration of a specific waiver or modification may also be initiated by staff or the Board. As a distinction, a waiver would be the elimination of a provision while a modification would generally be a reduction in scope of a provision.
- B. **Variances:** Variances are relief to a dimensional provision of this Ordinance by an affirmative vote of two-thirds (2/3) of the vote of the total membership of the Planning Board. Note that a two-thirds (2/3) vote of the attending quorum is not sufficient.

The criteria to grant variances shall be without exception and singularly because strict compliance with any provision of this Ordinance would cause exceptional or undue hardship to the applicant. Additionally, extra expense, economic hardship, or additional outlay of capital funds or money shall never constitute grounds for exceptional or undue hardship. Hardship shall hereby be defined as:

1. There exist exceptional, extraordinary, or unique physical circumstances of the subject property such as irregularity, narrowness, shallowness, or slope.
2. Because of the exceptional physical circumstances, the strict application of this Ordinance would create an exceptional or undue hardship to the property owner.
3. The hardship is not self-imposed. While self-imposition may be a complicated assessment, generally it refers to fore knowledge of the limitation or reasonable expectation of fore knowledge upon assuming ownership or control of the property.
4. The variance, if granted, will not adversely affect the use and/or enjoyment of adjacent property as permitted under this Ordinance.
5. That the variance, if granted, will not change the character of the area in which the property is located, and is in keeping with the intent of this Ordinance; and,
6. That the variance, if granted, does not adversely affect the health, safety, and welfare of the citizens of Benton County.

#### **§2.10 – RESERVED**

## **Chapter VI –SITE PLAN REVIEW**

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### **§6.1 – APPLICABILITY AND EXEMPTION**

### **§6.2 – DEVELOPMENT REQUIRING SITE PLAN REVIEW**

### **§6.3 – CUMULATIVE IMPROVEMENTS**

### **§6.4 – AMENDMENTS TO APPROVED PLANS**

### **§6.5 – SITE PLAN DESIGN STANDARDS**

### **§6.6 – LAND USES AND SPECIAL REVIEW CRITERIA**

### **§6.7 – LAND USE COMPATIBILITY**

### **§6.8 – SITE PLAN REVIEW PROCEDURES**

### **§6.9 – RESERVED**

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### **§6.1 – APPLICABILITY AND EXEMPTION**

All development in the unincorporated areas of the County requires site plan review to ensure orderly development and availability of on-site utilities and infrastructure. Developments requiring site plan review shall require development site plan to be approved in accordance with this Ordinance prior to the issuance of a Building Permit.

Filing an application constitutes one form of permission for the County Planning staff, members of the Planning Board, County Road Department, Environmental Officer, and/or any other authorized agent acting for the County, to enter the development, if necessary, for survey and examination in order to enforce compliance with this Ordinance.

1. The term "development" shall include but will not be limited to the construction of a new improvement, construction of an addition to an existing improvement; and,
2. Shall include commercial land alteration by way of excavating, quarrying, mining, or similar activities; examples include but are not limited to dirt pits, gravel pits, quarries, asphalt plants, concrete and cement plants, and any other commercial operation that would generate heavy traffic such that affected roads would require improvements or increased maintenance or present a danger to the public safety on said roads but in no event shall include a farm or other agricultural facility, nor shall it include a single family residence.

#### **Development Exempted from site plan review:**

1. One and two family dwellings as defined in the current edition of the International Residential Code and associated accessory uses and structures.
2. Agricultural uses as defined in chapter III including but not limited to structures and or buildings used for agricultural purposes such as, barns, pole sheds, and calf sheds.

3. Exempt Home and Rural family occupations and Temporary uses as defined in Chapter VII- Special Development Regulations including Agricultural Tourism activities that do not meet the threshold for site plan review.
4. Interior renovations to accommodate an existing or proposed land use to an existing building(s) that does not change the existing building envelope, nor require additional parking or create an environmental nuisance.
5. Changes to the existing building façade including changes to the parapet, addition of canopy, carports, dormer windows, mechanical equipment, changes to the existing roofline.
6. Change in use of an existing structure, provided that the use existed before the adoption of otherwise required Planning Board Review, and, provided the change in use does not increase the number of parking or loading spaces on-site or create any nuisance and or negative environmental impact to the nearby properties.
7. Installation and replacement of underground utilities located in public right-of-way and approved utility easements or corridors.
8. Public utility pump stations, utility boxes, and utility vaults.
9. Detached structures with a gross floor area less than 250 square feet or any other building or structure that does not require a building permit nor create an environmental nuisance.
10. Installation of fences, retaining walls, sidewalk, driveway and other impervious surfaces resulting in less than 10% additional impervious surface on-site.

#### **§6.2 - DEVELOPMENT REQUIRING SITE PLAN REVIEW**

Generally, the following types of development activities require site plan review which includes but is not limited to the following:

1. New single detached building(s) with a gross floor area of 250 sq. ft. or more accommodating land use other than exempt as per the categories described in §4.3, Land Use.
2. Addition to an existing building that would result in an increase in the gross floor area on-site.
3. Change of use of existing building(s) on-site that will require additional parking, loading or utilities or create potential nuisance and or negative environmental impact to nearby properties, traffic or safety considerations.
4. Location of five or more recreational vehicles or loading spaces on site.
5. Creation of a parking area with five or more parking spaces.

6. Creation of an outdoor material storage area, automobile salvage yard, junkyard, automobile graveyard as defined by Benton County Ordinance No. O-2004-33.
7. Outdoor sales areas including boat sales and service, auto and RV sales, marine repair services.
8. Any other land use or operation that would generate heavy traffic, including but not limited to dirt pits, gravel pits, quarries, asphalt plants, concrete and cement plants.
9. Any development or improvement within or abutting an environmentally sensitive area, Special Flood Hazard Area (SFHA), MS4 boundary may also require site plan approval.
10. Any existing use of land that has a history or potential for environmental concerns including but not limited to drainage issues, erosion, noise, vibration, glare, fumes, electromagnetic interference, odors, or air and water pollution or any environmental concerns due to the development activity on-site.
11. Home and Rural family occupations and Agritourism operations that meet the site plan review criteria.
12. All adult oriented business, retail liquor establishments and sports shooting ranges & sports facilities.

Site Plan review may require additional analysis due to the scale, scope, or anticipated impact of the project or use. For example, this may include trip generation, water usage or wastewater generation, anticipated nuisances, and other criteria. Projects of regional impact are high impact projects whose influence may extend to a regional scope.

### **§6.3 – CUMULATIVE IMPROVEMENTS**

While a single building or site addition may not have significant impacts to surrounding properties, the cumulative effect of multiple additions over time may create a substantive or noticeable impact and create nuisances that one isolated addition might not have. Review thresholds for projects developing in phases or cumulatively shall be as follows:

- A. **Developments or Uses Passing a Threshold:** Any project by nature of cumulative development passes a threshold level of review shall be required to be reviewed under the requirements of the higher threshold even though the development proposed triggering the threshold crossing may only be minor in scope.
- B. **Phasing:** Projects proposing to phase the development shall be reviewed at a scale appropriate to the full proposed build-out of the development.

**§6.4 – AMENDMENTS TO APPROVED SITE PLANS**

Any changes to a site plan that has received prior approval from the Planning Board shall be reviewed as Amendments to an approved site plan. Based on the scale and nature of the proposed changes, it may be reviewed as a Minor Amendment or a Major Amendment.

A. Minor Amendments Include the following:

1. Small scale building addition that would result in an increase in the gross floor area of the existing building(s) to no more than 10 percent (10%) of the existing without changing the orientation or location of the approved building on-site or increasing the parking/ loading requirements on-site.
2. Changes to the approved landscaping on-site which may be limited to a change in the plant material such that the alternative selection is in keeping with the approved intended function of the said landscaping for screening or buffering.

B. Major Amendments:

Approved site plan changes that do not meet the criteria for a minor amendment.

**Table 6.1 – Site Plan Amendment Thresholds**

	<b>Site Plan</b>
Minor Amendments	Administrative
Major Amendments	Public Hearing

**§6.5 – SITE PLAN DESIGN STANDARDS**

All development shall comply with the relevant provisions of chapter IV including land Use and development pattern, lot size and required setbacks, general requirements of development of land, and Performance Standards. In addition to the General requirements of division and development of land outlined in chapter IV, the following site plan design standards shall apply that includes design of safe and efficient vehicular access, adequate provision of parking and loading facilities on-site, provisions for compliance with the American with Disabilities Act (2010 ADA Standards), provision of adequate landscaping and screening on-site, and provision of utilities and services as outlined in this Section.

**1. Vehicular Access Requirements**

All development shall be accessed by a vehicular access that is located on the subject lands in accordance with the following standards:

- a. Where properties have frontage on more than one street, the access will be granted only on the street with the lower functional classification unless a traffic study approved by the Planning Board demonstrates that direct access to the arterial would promote improved traffic operations and/or safety.

- b. In order to promote safe traffic flow and minimize traffic conflicts, access driveways shall be adequately spaced and appropriately located to prevent blind corner along an existing road curvature or in close proximity to an existing access. In certain situation, the Planning Board may require a traffic study from the applicant to determine appropriate location and spacing to accommodate full-access movements and to alleviate potential traffic conflict concerns.
- c. Shared driveways may be permitted when fewer accesses onto a road or street would be favorable. A recorded shared access easement shall be required detailing the maintenance and operation agreement for the shared access to the satisfaction of the Planning Board.
- d. All access driveway shall be so arranged to prevent a vehicle to back out onto any County or public road.
- e. Development requiring larger vehicles such as trucks and semis to enter their property should provide truck turning templates on the site plan to verify sufficient width and safe maneuvering on-site.
- f. Access driveways shall be of sufficient length to allow vehicles to enter the center and not be impacted from on-site conflicts. An example of this type of conflict is when a vehicle is stopped in the entry driveway waiting for a vehicle to vacate a parking space on a drive aisle perpendicular to the driveway. Proposed development with greater than the peak-hour traffic demand may require adequately designed driveway on-site.
- g. Access driveway shall have the apron paved in accord with the standards as presented in the Benton County Road Plan.
- h. Property owner may be required to develop and submit a dust abatement plan to prevent dust on-site to the satisfaction of the Planning Board. The plan may include but is not limited to application of water or a dust palliative as needed.
- i. Property owner shall maintain and clean the approaches as set out above on a regular basis and shall be responsible for removal of any foreign objects on a County or public road which have been deposited on said road as a result of activity generated by said development.
- j. Sight Triangles. On all driveways, no landscaping, fencing, or signs above 30 inches in height are to be located on private property within a 12-foot sight triangle as measured from the right-of-way. Where building design precludes providing this sight distance, signage should be used to warn other users of approaching vehicles to the satisfaction of the County Road Department. Fences and perimeter landscaping should not obscure the sight triangles at driveway entrances to the public way.

## 2. Fire and Emergency Access Lane

Emergency access lanes are required for most large commercial and industrial land uses, and other facilities such as hospitals, schools, and large apartment buildings. Requirements for emergency access lanes are established by the Benton County Fire Marshal. When such lanes are provided, the developer is responsible for the installation and maintenance of the necessary signs and markings to delineate the lanes and prevent parking in them. Signs, at spacing not more than 50 feet, indicating, "No Parking, Fire Lane", are required.

## 3. Parking Area Design and Circulation

Parking is an important element in site design, and it is required that adequate parking facilities are constructed as part of any new development. To prevent large expanses of asphalt separating businesses from abutting public roads, developers are encouraged to break parking areas up into modules separated by landscaping and other features.

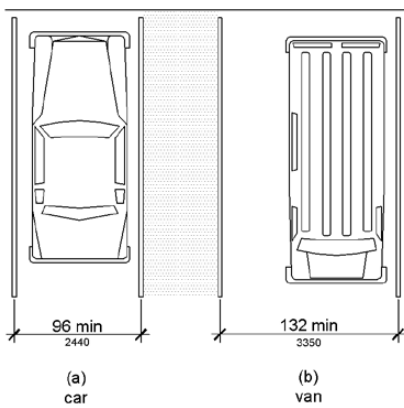
- a. Number of Spaces. The number of required parking spaces will be determined in accordance with Table 6.3. The table indicates minimum parking requirements related to the type of Land use. Where parking spaces are based on the square footage of a building, the applicant shall provide a calculation based on gross floor area.
  - i. Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.
  - ii. In the case of mixed uses, uses with different parking requirement occupying the same building or premises, the parking spaces required shall equal the sum of the requirement of the various uses computed separately.
  - iii. Joint Use of Parking Facilities: Whenever possible, the parking needs of two or more properties may be consolidated rather than providing independent facilities. Planned Unit Developments such as shopping centers, office and apartment developments, and similar uses should particularly consider joint parking facilities.
- b. Provision of Accessible Spaces On-Site. The type and number of ADA-compliant parking spaces shall be subject to applicable state law. See table 6.1 for accessible space requirements.

The number, locations, dimensions, and signing of accessible parking stalls shall be in accordance with the current ADA Standards for Accessible Design. Accessibility for persons with disabilities in parking lots and buildings shall be as required by the current ADA standards. The following table shall be used to determine the minimum number of accessible parking spaces to be provided on-site.

Table 6.1 – Number of required accessible spaces

Total Parking in Lot	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1001 and over	20 plus 1 space for each 100 spaces over 1000

Fig. 6.1 Typical size of accessible parking spaces



Accessible parking spaces shall be at least 96 in (2440 mm) wide. Two accessible parking spaces may share a common access aisle as shown in figure 6.1. The length of the accessible parking space shall be consistent with Figure 6.2. Parking access aisles shall be part of an accessible route to the building or facility entrance and shall ADA requirements. Parked vehicle overhangs shall not reduce the clear width



of an accessible route. Parking spaces and access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all directions.

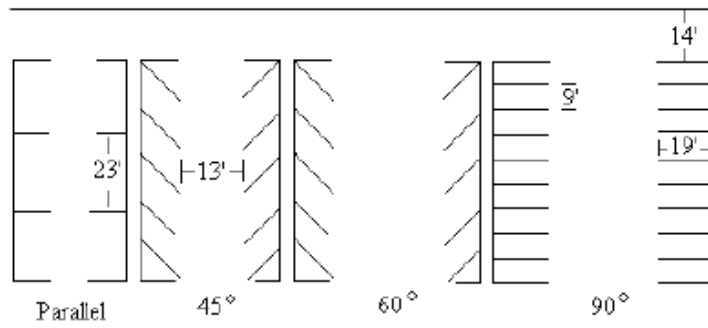
One in every eight accessible spaces, but not less than one, shall be served by an access aisle 96 in (2440 mm) wide minimum and shall be designated "van accessible" with adequate vertical clearance at such spaces in compliance with ADA standards.

- c. **Parking space Dimensions and Layout:** The standard stall width shall be a minimum of nine feet in width and minimum nineteen feet in length. Parking area dimensions are detailed in Table 6.2. Parking layout may be designed with varying angles as shown in Figure 6.1-Off Street parking Layouts. Parking at right angle is encouraged, however, where there is a desire to provide additional on-street parking, diagonal parking may be used with a one-way traffic flow.

**Table 6.2 Off-Street Parking Dimensions**

Criteria	45 Degrees	60 Degrees	90 Degrees	Parallel
Minimum Width of Parking Space	12'	10'	9'	9'
Minimum Length of Parking Space	19'	19'	19'	19'
Minimum Width of Driveway Aisle	13'	17'6"	25'	12'
Minimum Width of Access Driveway	17'	14'	14'	14'

**Figure 6.2 – Off Street Parking Layouts**



- d. **Traffic Circulation:** All internal site circulation shall be contained within the site. Use of public streets for internal circulation shall not be permitted. Parking areas accommodating over ten (10) vehicles should have continuous (as opposed to dead-end) circulation patterns.

Parking area serving a specific land use shall be located on the same parcel. Detached or satellite parking facilities may be used only if the satellite location is under the same ownership and within reasonable proximity. On site loading/ unloading spaces shall be located to avoid undue interference with public right of ways and where possible away from residential or sensitive land uses due to the possibility of noise and light intrusion, except where it is located within a completely enclosed building.

#### 4. **Parking area Surfacing and Grading**

Parking area surfaces shall be a hard surface and mud free with adequate drainage. In certain situations, asphalt or concrete surfacing may be required by the Planning Board. The maximum desirable grade in any direction is 5 percent. Parking spaces in commercial, industrial, institutional, and public parking lots should be maintained in such a manner that no dust will be produced by continued use. Parking spaces shall be clearly marked with painted lines or dividers and the perimeter shall be defined with concrete bumper curbs, wood ties or other similar features to delineate the limit of the parking areas and to protect the landscape areas.

#### 5. **Loading Spaces**

Loading spaces or docks should be designed in a manner where they can be accessed from a public road without backing or maneuvering on public road. All loading spaces must be located off the public way, and be of sufficient length. Locating loading docks that require a backing maneuver to or from an arterial and/or collector street should be avoided. Similarly, loading docks shall be located as far away from the residential use as possible to prevent noise and lighting nuisance and shall be adequately screened. In situations where loading areas are located in proximity to residential or sensitive land uses, noise abatement measures such as noise attenuation walls designed and constructed to Industry standards may be required. Loading space sizes shall be minimum 10 feet by 25 feet. Loading spaces shall be required on-sites based on the proposed activity/land use.

#### 6. **Exterior Lighting**

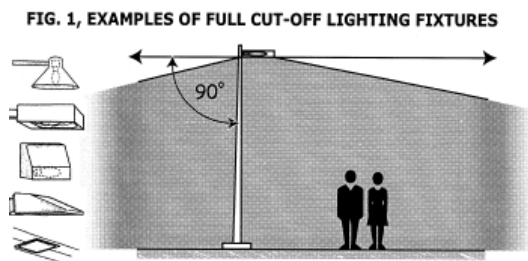
Exterior lighting should be used to enhance safety and security on the site, to provide adequate lighting for nighttime activities and to highlight special site features. The use of outdoor lighting is often necessary for adequate nighttime safety and utility, but common lighting practices can also interfere with other legitimate public concerns. Principle among these concerns is:

1. The degradation of the nighttime visual environment by production of unsightly and dangerous glare;
2. Lighting practices that produce excessive glare and brightness;
3. Unnecessary waste of energy and resources in the production of too much light or wasted light;

- Interference in the use or enjoyment of property that is not intended to be illuminated at night by light trespass, and the loss of the scenic view of the night sky due to increased urban sky-glow.

All exterior light fixtures are required to be identified on the site plan along with the intensity and type of light fixture. Full cut off light fixtures are required.

**Figure 6.3 – Example of Full Cut off Lighting**



The term full cut-off is used to describe luminaires that have no direct up-light (no light emitted above horizontal). However, in addition to that limitation, the Illuminating Engineering Society of North America (IESNA) definition also requires luminaires to comply with the glare requirement limiting intensity of light from the luminaire in the region between 80° and 90°.

The term fully shielded is used for luminaires that emit no direct up-light, but have no limitation on the intensity in the region between 80° and 90°.

Parking areas should have safe access to public streets and be adequately lighted for night use. The lighting is required to be full cut off lighting and shall be directed away from nearby residential or other sensitive land uses.

Recreational vehicle or storage parking areas should have security fencing and lighting.

## **7. Landscaping and Buffers**

This shall be consistent with §4.6. In addition the following criteria apply:

### **Screening/Buffering Requirements**

A screen or buffer is a natural or man-made feature which separates land uses. Screening, buffering, and landscaping requirements address visual, light, and sound impacts. Screens and buffers can enhance community appearance, reduce land use conflicts by separating incompatible land uses, improve the appearance of parking areas and public rights-of-way, minimize soil erosion, and reduce stormwater runoff.

Screening requirements focus more on the visual impacts of the use, and buffering focuses more on light and sounds, although the two are interrelated. Screens could be fences, walls, trees, or shrubs placed to help blend the use into the surroundings or block it completely. Buffers could be strips of land or water, hills or berms, a clump of trees, or other landscaped features. Berms are mounds of landscaped earth and are especially useful along roadways to reduce the glare of headlights and noise from traffic. Small, landscaped berms are also used to enhance the appearance of commercial corridors.

Landscaping requirements address size, spacing, quality, composition, installation, and maintenance. Berm standards address slope, landscaping, and width of the crown. Fencing and screening standards address height, setbacks, materials, traffic safety, and emergency access. Fencing and screening are typically required for outdoor storage, mechanical equipment, roof-mounted equipment, utility substations, side and rear lot lines of nonresidential uses, and swimming pools.

Walls made of brick or stone can be attractive and effective buffers but they are also the most expensive. Therefore, appropriate selection of choice between landscaped buffers, fences, and solid walls where screening is required.

It is suggested that where trees or shrubs are used for screening or buffering the following guideline may apply:

- Deciduous Trees – Two (2") inch caliper
- Coniferous Trees – Five (5') feet in height
- Shrubs – Two (2') feet in height

Shrubs required for screening must have a minimum height of five (5") inches. All trees should be wire basket, B & B, or container grown. Deciduous trees planted in a row will be centered at ten (10') feet maximum. Smaller flowering trees and ornamentals will be centered at four (4') feet maximum. Coniferous trees will be centered at four (4') feet to five (5') feet depending on desired effect.

All shrubs are to be planted in continuous planting beds. Planting beds will be mulched to a minimum depth of three (3") inches and will be maintained weed free. Plantings consisting of trees and shrubs will be a minimum of 50% coniferous plantings.

All landscaped berms shall have a maximum slope of 3:1 for maintenance and landscape purposes.

Responsibility for maintenance and upkeep of natural (vegetative) and constructed buffers and screens shall be the sole responsibility of the property owner of record. Natural buffers must be maintained in healthy condition throughout the duration of the incompatible use. Any required planting materials that expire shall be replaced by equivalent plants in good health.

#### **8. On-site Infrastructure and Utilities**

All on-site infrastructure and utilities shall be identified on the site plan, including location of water pipelines, private wells, septic tank, lateral fields, overhead transmission lines traversing the property, easements, propane tanks, and all other infrastructure elements.

9. Site Plan Design Professional

~~ALL SITE PLANS SHALL BE DESIGNED AND PRODUCED BY A REGISTERED PROFESSIONAL ENGINEER/SURVEYOR/LANDSCAPE ARCHITECT/ARCHITECT IN THE STATE OF ARKANSAS FOR WHICH A PROFESSIONAL SEAL / SEAL STAMP SHALL BE CONTAINED ON THE PLAN.~~

**Commented [TSR1]:** Remove requirement for Site Plans to be certified by design professional.

**Table 6.3 – On-Site Parking Performance Standards**

Proposed Land Use	Minimum Parking Requirements
<b>RESIDENTIAL</b>	
Duplex	1.5 spaces per unit or 3 spaces per duplex
Multi-family residence	2 spaces for the first two units and 1.5 spaces per unit for subsequent units
Congregate elderly housing	0.6 spaces per unit
Hotel, Motels or inn	1 space per guest bedroom
Bed and Breakfast	1 spaces per guest bedroom plus 1 space for the owner
<b>INSTITUTIONAL</b>	
Nursing or rest homes, similar resident care Facilities	1 space per 2 employees + 1 space per physician + 1 space per 2 beds or rooms
Day care centers	1 space for every 2 employees plus 1 additional space for every 10 children served.
Schools (public or private)	1 spaces per teacher/staff + 1 space for every 10 secondary students; Note that facility must provide adequate off-street bus loading and unloading areas.
Libraries and museums	1 space per 2 employees + 3 spaces per 1000 s.f. of Gross Floor Area (GFA)
Hospital	1 space per 2 employees + 1 space per doctor + 1 space per 2 beds
Church or other house of worship	Greater of 1 per 5 seats or 1.75 per 1000 s.f. of Gross Floor Area (GFA).
<b>COMMERCIAL</b>	
<b>Proposed Land Use</b>	<b>Minimum Parking Requirements</b>
Shopping centers	5 spaces per 1000 s.f. of Gross Floor Area (GFA)
Sport arenas, theaters, auditoriums	1 space for every 4 seats and/or 30 sq. ft. of assembly area without fixed seating.
Motor vehicle repair	1 space per employee plus 3 spaces per bay
Full service restaurants, bars, entertainment, clubs, and similar uses; bowling alleys	1 space for every 5 fixed seats and/or 100 sq. ft. of floor area used for assembly dancing recreations,

Proposed Land Use	Minimum Parking Requirements
	etc. whichever is greater + 1 space for every 2 employees on the largest shift + 5 spaces per lane for bowling alleys (Note that no use in this category shall provide less than 10
Restaurant, or fast food	5.5 spaces per 1000 s.f. Gross Floor Area (GFA) or 1 space per 4 seats whichever is greater
Drive through facilities, such as, financial institutions with drive up teller or ATM, pharmacy	Vehicle stacking requirement of 4 vehicles per window/kiosk
Drive through facilities, such as, restaurants, fast food and or coffee shops with no indoor seating	Vehicle stacking requirement of 6 vehicle per window
Banks, similar financial institutions; real estate, insurance; business and professional offices, auto sales and service centers	3 spaces for every 1000 sq. ft. of Gross Floor Area (GFA)
Medical offices	1 space per 2 employees + 3 spaces for every 1000 sq. ft. Gross Floor Area (GFA)
Major appliance, furniture stores, general merchandise "discount" stores	2 spaces for every 1000 sq. ft.; adequate loading areas
Other commercial or retail uses	5 spaces for every 1000 sq. ft.; Note that adequate loading areas shall be provided
Outdoor sales areas (boats, autos, RV's implements, mobile homes), Boat sales and service	1 space for every 1000 sq. ft. up to 10 spaces; an additional space for each additional 5000 sq. ft.; one space per employee on largest shift; Site must provide adequate loading areas.
Marine repair services, no boat sales	1 space per employee plus 3 per bay or work area
<u>SELF-SERVICE STORAGE FACILITIES</u>	<u>1 SPACE PER 30 STORAGE UNITS + 1 SP per employee. FOR UNENCLOSED FACILITIES, IN WHOLE OR AS PART OF A SINGLE FACILITY, 1 SPACE + ONE ADDITIONAL SPACE PER EMPLOYEE. SITE MUST HAVE ADEQUATE AND SEPARATE LOADING AREAS AND HOLDING AREAS FOR VEHICLES LOADING OR UNLOADING.</u>
Indoor rack boat storage	1 space per employee plus 2 for visitors,
Retail gasoline stations	Vehicle stacking requirement of 2 vehicle per gasoline pump
Wholesale gasoline stations	Vehicle stacking requirement of 4 vehicle per gasoline pump

**Commented [KG2]:**  
*City of Bentonville (AR): Mini-Warehouse Storage: One (1) or more permanent structures, meeting applicable City building requirements, which contain separate storage units or cubicles that are intended to be leased by members of the public (p. 201-14).*

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*AACO (MD); 1:60 bays + 5 at 'business office' w/ 2 of 5 allocated for employees (Art. 18, p. 35). Staff proposing 30/unit metric since more rural in nature and space should otherwise be allocated for modest increases in parking supply for this use.*

**FREDERICK (MD);** Rural Co., with fast growing city within it; County does not 'park' self-storage/mini-storage units – does apply 1 space per employee, with adequate loading and unloading

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Proposed Land Use	Minimum Parking Requirements
Manufacturing, processing and wholesale facilities (and similar uses or establishments)	1 space for every employee/shift + 1 space for each company owned vehicle + Designated visitor parking spaces <del>H</del> (or) 2 spaces per 1000 s.f. of Gross Floor Area (GFA), whichever is greater. Site must have adequate loading areas and holding areas for vehicles loading or unloading.
Warehouse or storage facilities	1 space for every employee/shift + 1 space for each company owned vehicle <del>H</del> (or) <del>5-11</del> spaces per 2,000 s.f. of Gross Floor Area (GFA), up to 50,000 sq. ft., after which, in addition, 1 space per 10,000 sq.ft. whichever is greater. Site must have adequate loading areas and holding areas for vehicles loading or unloading.
<b>OTHER</b>	
Mixed uses	Parking requirements shall be the sum total of the requirements of the individual uses, but shared reduced parking requirements may be allowed between uses with a shared parking plan. <u>Example</u> : A building containing 2000 s.f. of retail uses on ground floor (2000/200=10) + 2000 s.f. of office uses on 2 <sup>nd</sup> floor (2000/.333=6) + 2 units of residential use on 3 <sup>rd</sup> floor (2 spaces each=4) would require 20 parking spaces unless reduced through a shared parking plan.
<p><b>Note 1:</b> The square footage used to determine parking space requirements will be the gross square footage devoted to a user's principal function. Service and support spaces, like restrooms, boiler rooms, and closets will not be included.</p> <p><b>Note 2:</b> Stacking space shall have the same dimensional requirement as a parking space. Further, stacking lanes shall not interfere with parking spaces, parking aisles, internal site circulation, or points of ingress and egress and shall not stack into any Public Road.</p> <p>In case joint parking facility is proposed, 50% of the required spaces may be shared with adjoining business, institutions and agencies that do not have a time conflict in parking demand.</p>	
<b>INDUSTRIAL</b>	

**Commented [KG4]:** Removes 'plus' symbol to remedy reading as a cumulative requirement to prior parking demands.

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**Commented [KG5]:** Removes 'plus' symbol to remedy reading as a cumulative requirement to prior parking demands

**Commented [KG6]:** County standard currently between 3x and 5x greater than area cities/towns. Amended to be in line with area municipal standards.

**Current Standards for Parking by select municipality:**

- Bentonville & Rogers @ 1 sp./1,600 gfa;
- Fayetteville @ 1 sp./2000 gfa;
- Springdale @ 1 sp./1,776 gfa)

**EX: 40,000 sf gfa warehouse generates pkg. supply of:**

- 25 pkg. sp. – Bentonville & Rogers;
- 20 pkg. sp. – Fayetteville;
- 34 pkg. sp. – Springdale
- 100 pkg. sp. – Benton Co.

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**§6.6 LAND USES AND SPECIAL REVIEW CRITERIA**

An exhaustive list of land uses is provided in the table below along with special review criteria for certain uses that warrant additional design considerations ranging from setbacks, provision of adequate screening and buffering as well as licensing.

**Table 6.4 – List of Uses and Use Specific Criteria**

<b>Use Group and Category</b>	<b>Special Criteria</b>
<b>Exempt Uses</b>	
Single-family residential uses, low density (1)	Exempt from the provisions of this chapter.
Single-family residential uses, medium density (2)	Exempt from the provisions of this Chapter.



Use Group and Category	Special Criteria
Agricultural Uses (0)	Exempt from these regulations except for certain agricultural commercial activities and certain agri-tourism uses.
<b>Commercial Uses</b>	
General offices and office buildings to be used for the administrative functions of companies, corporations, non-profit, social, or philanthropic organization or societies (7)	
Professional offices, such as accountants, architects, brokers, engineers, dentists, insurance, lawyers, physicians, osteopaths, chiropractors, planners, real estate, etc. (4)	
Financial institutions including banks, savings and loan institutions, credit union offices (6, 7)	
Printing, publishing, and engraving firms, including newspaper publishing (9)	
Hospitals, Medical and Emergency Clinics (5)	
Appliance and other repair shops; general service and repair establishments (6, 7)	
Radio and television studios, photographic studios (7)	
Automotive and truck service stations, and related development including: repair and service facilities, tire sales and service, paint and body shops, upholstery shops, muffler service and repair, car and truck washes, new and used car and truck sales, etc. (9)	
Child and adult care facilities (5)	Childcare and adult care facilities shall provide appropriate licensing and accreditation letters.
Hospitals or Veterinary clinics for animals (7)	Kennels, outdoor runs, and animal crematoria require sufficient screening, buffers, and noise reduction. Crematoria also require approval from ADEQ Air Quality division.
Alcoholic beverages generally (7, 9)	Uses which sell any product defined and/or described in the Rules and Regulations of the Alcoholic Beverage Control Division of the State of Arkansas Department of Finance and Administration shall adhere to said rules and regulations and shall provide to the Planning Board any permit or license required by the ABC as applicable.
Mortuaries, Funeral Homes (8)	Crematoria require 50 foot setbacks from all property lines plus sufficient buffers and screening from adjacent uses
Speedways, racetracks, drag tracks and other motor sport facilities (9)	Requires minimum 200-foot setbacks from property lines plus sufficient screening, buffers, and noise reduction.
Shopping centers, retail stores and shops, including the following: antique shop, appliance store, art school, gallery, museum, artist materials, supply studio, auto supply, baby shop, bakery goods, barber, beauty shop, book and stationery store, camera, candy, catering establishment, cleaning, pressing, laundry collection agency, clothing, gift shop, dry goods, dairy products or ice cream store, delicatessen, department store, florist, furniture store, grocery store or supermarket, hardware store, jewelry or notion, lodge hall, meat market, medical facility, messenger or telegraph service, musical instrument sales, newspaper or magazine sales, optical sales and service, package liquor store, paint and decorating	

Use Group and Category	Special Criteria
shop, pharmacy, radio and television sales and service, restaurant, self-service laundry or dry cleaning, sewing machine sales, sporting goods sales, shoe store or repair shop, tailor shop, toy store, variety store (6, 7, 9)	
Auditorium, theater, stadia and open-air theaters (8)	Outdoor venues require minimum 200 foot setbacks from property lines plus sufficient screening, buffers, and noise reduction.
Amusement and recreation including bowling alleys, amusement arcades, mini-golf, and go-cart tracks (7, 9)	Outdoor venues require minimum 100 foot setbacks from property lines plus sufficient screening, buffers, and noise reduction.
Taverns, bars, night clubs, adult entertainment and other membership clubs (7, 9)	<p>7. Facilities serving alcoholic beverages shall meet the requirements of the Alcoholic Beverage Control Laws and Rules and Regulations of the State of Arkansas. Refer to §7.8 of this Ordinance.</p> <p>8. Facilities using an amplified sound system shall not exceed reasonable noise levels external to the building and may be restricted regarding the time of day that such amplified noise may be permitted.</p>
Restaurants, drive through establishments, etc. (7, 8)	
Hotels, motels, or motor hotels (7)	
Airports and air transportation (8, 9, 10)	Require minimum 300 foot setbacks from property lines plus sufficient screening, buffers, and noise reduction mitigation measures.
Cold-storage units, <a href="#">Self Service Storage Facility</a> , food storage lockers, mini-storage units, transportation and associated uses (8, 9)	
Farm machinery sales and services, including storage yard, parking lots operated as a business; plumbing and heating shops; trailer and mobile home sales area (9)	
Special events facilities (8)	<p>Review based on scale. Larger facilities will have a greater impact and may be reviewed as a Level III site plan.</p> <p>At minimum require limits on hours of operation, potential noise reduction, provision of overflow parking, ingress-egress, and location criteria.</p>
Retail sale of alcoholic liquor (7, 9)	All retail establishments selling must adhere to the Arkansas Rules and Regulations of the Department of Finance and Administration, Alcoholic Beverage Control (ABC) Division, as may be amended from time to time. Applicants proposing to develop or otherwise establish a liquor retail facility shall provide the Planning Board with their license approved by ABC. Refer to §7.8 of this Ordinance.
Livestock auctions, feedlots and	Require minimum 200 foot setbacks from property lines plus

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Use Group and Category	Special Criteria
holding pens, and compost facilities used for commercial sales (7)	sufficient screening, buffers, and noise reduction.
<b>Industrial Uses</b>	
<p>Chemicals, Petroleum, Coal, and Allied Products: Manufacturing, processing, or warehousing of: cosmetics and toiletries, ice (including dry ice), ink, insecticides, fungicides, disinfectants, and related industrial and household chemical compounds, pharmaceutical, products, soap, washing or cleaning powder or soda, thermo-plastics, adhesives, bleaching products, bluing, calcimine, candle, dyestuff, essential oils, exterminating agents and poisons, soap products, acids and derivatives, acetylene, alcohol (industrial), ammonia, caustic soda, cellulose and cellulose chlorine, coke oven products (including fuel gas), creosote, coal, tar, asphalt, wood and bones, fertilizer (organic or non-organic), fish oils and meal, fuel briquettes, glue, hydrogen and oxygen, nylon, petroleum, gasoline, lubricating oils, plastic materials and synthetic resins, potash, proxyn, rayon; rendering and storage of dead animals, storage and transfer of offal, garbage, or waste product (solid waste transfer stations), resource recovery facilities, dyeing and cleaning works (11)</p>	<p>Submit a hazardous materials handling and disposal plan that includes the types and amounts of materials to be used, detailed narrative of how each material will be used, what precautions will be taken, and how the used materials will be disposed of. Applicant shall note on the plan the area(s) within the building(s) and site where materials will be used and/or stored.</p>
<p>Food and Beverage: Bakery products, wholesale (manufacturing permitted), beverage, blending, bottling, candy, chewing gum, chocolate and cocoa products, coffee/tea/spices processing and packaging, condensed and evaporated milk processing, creamery and dairy operations, dairy products, flour/feed/grain packaging and storage, fruit and vegetable processing (including canning, preserving, drying, and freezing), gelatin products, glucose and dextrin, meat products, poultry packaging and slaughtering, yeast, breweries, fish/oysters and other seafood processing, sugar refining, cider and vinegar, distilleries (alcoholic) breweries and alcohol spirits (non-industrial), fat rendering, slaughtering of animals, starch manufacturing (8, 11)</p>	<p>Facilities that engage in noxious or foul activities that could be a nuisance such as animal slaughtering or fat rendering should be established in an industrial location and shall not be located within 500 feet of any residential use.</p>
<p>Metals and Metal Products: Manufacturing, warehousing, storage, and distribution of agricultural or farm implements, aluminum, bicycles, boats, bolts, nuts, screws, washers and rivets, culvert, firearms, foundry products, heating/ ventilation /cooking</p>	<p>Submit a hazardous materials handling and disposal plan that includes the types and amounts of materials to be used, detailed narrative of how each material will be used, what precautions will be taken, and how the</p>

Use Group and Category	Special Criteria
/refrigeration supplies and appliances, iron fabrication, machinery, nails /brads /tacks /spikes /staples, needles and pins, plating, plumbing supplies, scale and vault, sheet metal products, silverware and plated ware, stove and range, tinsmith shop, tool/die/gauge and machine shops, tools and hardware products, vitreous enameled products, boiler manufacture, galvanizing and plating (hot dip), lead oxide, locomotive and railroad car building, motor testing, ore dumps and elevators, structural iron and steel fabrication, wire rope and cable, aircraft and aircraft parts, automobile, truck trailer, mobile home and bicycle assembly, blast furnace, blooming mill, metal and metal ores, reduction, refining, smelting and alloying, scrape metal reduction, steel works and rolling mill (8, 11)	used materials will be disposed of. Applicant shall note on the plan the area(s) within the building(s) and site where materials will be used and/or stored.
Textiles, Fibers, and Bedding: Bedding (mattress, pillow, and quilt), carpet, rug, and mat, hat, bodies of fur and wool felt manufacture, hosiery mill, knitting, weaving, printing, finishing of textiles and fibers into fabric goods, rubber and synthetic treated fabrics, yarn thread and cordage, bleachery cotton wadding or linter, hair and felt products, jute, hemp and sisal products, linoleum and other hard surface floor covering, oilcloth, oil-treated products, and artificial leather, shoddy, wool (pulling or scouring) (8, 11)	Submit a hazardous materials handling and disposal plan that includes the types and amounts of materials to be used, detailed narrative of how each material will be used, what precautions will be taken, and how the used materials will be disposed of. Applicant shall note on the plan the area(s) within the building(s) and site where materials will be used and/or stored.
Wood and Paper Products: Basket and hamper (wood, reed, rattan, etc.), box and crate, cooperage works, furniture, pencils, planning and millwork, pulp goods (pressed or molded including paper mache products), shipping container (corrugated boards, fiber, or wire bound), trailer, carriage and wagon, wood products, excelsior, paper and paperboard, sawmill, wall board, match manufacture, wood preserving treatment, wood pulp and fiber, reduction and processing (8, 11)	Submit a hazardous materials handling and disposal plan that includes the types and amounts of materials to be used, detailed narrative of how each material will be used, what precautions will be taken, and how the used materials will be disposed of. Applicant shall note on the plan the area(s) within the building(s) and site where materials will be used and/or stored.
Extraction Uses (21): Surface mining operations including: strip and open-cut mining, and quarrying (11)	
Junkyard Uses: Junk, scrap, or salvage yards, including junkyards, automotive salvage yards, and automotive graveyards (11)	
Other Unclassified Uses: Manufacturing, storage, sales, and distribution of construction materials (cement, lime in bags or containers, sand gravel, shell, lumber and the like), bus garage and repair shop, button, carbon paper and inked ribbons, tobacco products, cleaning and dyeing of garments, hats and rugs, coal and coke, fir finishing, industrial vocational training	Submit a hazardous materials handling and disposal plan that includes the types and amounts of materials to be used, detailed narrative of how each material will be used, what precautions will be taken, and how the used materials will be disposed of. Applicant shall note on the plan the area(s) within the

Use Group and Category	Special Criteria
school (including internal combustion engines), laboratories, research, experimental including combustion-type motor testing, laundries (commercial only), wholesale market, motion picture production, printing, publishing, and engraving, produce, railroad switching, tire treading and vulcanizing, truck or transfer terminal, other wholesale houses and distributors, oils/vegetables/animal processing and storage, paint/lacquer/shellac and varnish, roofing materials, building paper and felt, bag cleaning, cotton seed, oil refining, leather goods, tanning operations, hair/hides/raw fur/curing, dressing, dyeing and storage, rubber processing, rubber tire and tube, batteries (8, 11)	building(s) and site where materials will be used and/or stored.
Clay, Stone, and Glass Products: Abrasive wheels, stones, paper, cloth, and related products, brick, firebrick, and clay products, concrete products, central mixing and proportioning plants, glass products, monument and architectural stone, pottery and porcelain products, refractories, sand-lime products, stone products, wall board and plaster, building, installation and composition flooring (8, 11)	Submit a hazardous materials handling and disposal plan that includes the types and amounts of materials to be used, detailed narrative of how each material will be used, what precautions will be taken, and how the used materials will be disposed of. Applicant shall note on the plan the area(s) within the building(s) and site where materials will be used and/or stored.
Waste management and remediation services (11)	
<b>Other Typical Uses Subject to Site Plan Review</b>	
Apartments, townhouses, condominiums (3)	
Mobile home parks, trailer parks, RV parks, and campgrounds (2)	
Utility uses including power generation, natural gas distribution and storage, water supply and irrigation systems, sewage treatment facilities, steam and air conditioning supply, and telecommunications (10)	
The non-production or non-process use of commercial amounts of hazardous chemicals or substances	

## §6.7 LAND USE COMPATIBILITY

Basic compatibility for the purpose of conducting an appropriate level of site plan review is determined using the following steps:

- A. Using Table 6-6 below, determine the land use category or categories that the proposed development best fits. The number(s) in parentheses identify the subject land use category for the purpose of the review. Determine the adjoining land uses and their respective land use number code.
- B. Using the “A” column (Subject Property) in Table 6-2 below, locate the use row for the land use type. Then using the “B” columns, find the corresponding land use category for each of the land uses adjacent to the subject property. The cell(s) where the row in Column “A” intersects with the appropriate “B” column(s) is the “basic compatibility” for the proposed project.

**Table 6.5 – Land Use Compatibility Matrix**

<b>A. Subject Property ↓</b>	<b>B. Adjacent Property →</b>	Agricultural (0)	Low Density Residential (1)	Medium Density Residential (2)	High Density Residential (3)	Professional Office (4)	Government/Educational/Institutional (5)	Neighborhood Commercial (6)	General Commercial (7)	Regional Commercial/Light Industrial (8)	Heavy Commercial (9)	Utilities (10)	Heavy Industrial (11)
Agricultural (0)		☑											
Low or Med. Density Residential (1/2)		☑	☑										
High Density Residential (3)		☑	B	B	☑								
Professional Office (4)		☑	A	A	A	☑							
Government/Educational/Institutional (5)		☑	B/C	B/C	A	☑	☑						
Neighborhood Commercial (6)		A	B	A/B	A	☑	☑	☑					
General Commercial (7)		B	B/C	B	B	A	☑	☑	☑				
Regional Commercial/Light Industrial (8)		B	C	C	B/C	A	A	A	☑	☑			
Heavy Commercial (9)		C	☒	☒	C	B	A/B	A	☑	☑	☑		
Utilities (10)		B/C	☒	☒	B	A	☑	☑	☑	☑	☑	☑	
Heavy Industrial (11)		☒	☒	☒	☒	C	C	C	☑	☑	☑	☑	☑

C. The “basic compatibility” score will be one of the following:

1. **Fully compatible or GREEN:** This means that for site plan review, mitigation will either be unnecessary or incidental.
2. **Questionably compatible or YELLOW:** This means that compatibility can be achieved but some mitigation will be required. There are three levels of questionable compatibility as per Table 6-2 below including:
  - a. Minor (A)
  - b. Moderate (B)
  - c. Major (C)

Based on the category A, B, or C, the applicant can determine a set of standards for setback and buffers.

3. **Incompatible or RED:** This means that the uses are generally regarded as incompatible. Unless unique circumstances or extraordinary mitigation measures are proposed, the application should not be supported.

D. Based on these standards, applicable review criteria listed in Table 6.6 below, and applicable performance standards listed in chapter IV, the applicant should have a set of criteria upon which to develop a site plan with appropriate mitigation measures to ensure optimum compatibility.

**Table 6.6- Compatibility Levels and Criteria**

Compatibility Level	Setbacks	Buffer Requirements	Additional Mitigation
<b>Level 1 – Fully Compatible:</b> When a proposed use is identical to pre-existing land uses or totally compatible it is assumed to be fully compatible. Development should be designed consistent with good planning practice and to ensure the maintenance of compatibility.	Standard	None	None
<b>Level 2 – Questionable Compatibility:</b> When a proposed use may have potential conflicts, either minor or significant, with existing adjacent uses, such conflicts may need to be remedied or minimized through project redesign. Traffic and other external effects should be directed away from lower-intensity uses. Landscaping, buffering, and screening should be employed to minimize negative effects. Other mitigation measures may be necessary to ensure basic compatibility. There are three degrees of questionable compatibility:	<b>A-Minor</b> Add 0'-10'  <b>B-Moderate</b> Add 10'-15'  <b>C-Significant</b> Add 15'-20'	<b>A-Minor</b> 10'-15' Depth 2 tier plantings  <b>B-Moderate</b> 15'-25' Depth 2-3 tier plantings  <b>C-Significant</b> 25'-40' depth May require	Based on specific use. See Table of Uses for specific examples and refer to performance criteria in §4.8

<p><b>A-Minor:</b> May require minimal setbacks, screening, or buffering plus other measures based on specific use such as restrictions on hours of operation.</p> <p><b>B-Moderate:</b> May require deeper setbacks and/or more concentrated screening and buffering plus other measures based on specific use such as restrictions on hours of operation.</p> <p><b>C-Significant:</b> May require substantial setbacks and/or may also require the most intensive screening and buffering plus other measures based on specific use such as restrictions on hours of operation.</p>		wall/fence and 3 tier plantings	
<p><b>Level 3 – Incompatible/Deleterious:</b> When a proposed use is incompatible with adjacent land uses, the project should not be supported unless extraordinary measures can be taken to offset the impacts. Incompatibility may trigger a fundamental shift in predominant land uses in a previously stable area.</p>	Greater than 20'	40' or greater; May require wall/fence and 3 tier plantings	Based on specific use. Mitigation, if feasible or practicable, will likely be significant.

**§6.8 - SITE PLAN REVIEW PROCEDURES**

**A. Administrative Review Process**

1. Pre Consultation and Development Review Committee (DRC) Meeting : Prior to submission, applicants are encouraged to pre-consult with Planning staff and attend the DRC meeting to review the documents/ drawings required for the submission ~~and applicable design guidelines.~~
2. Preparation of Application Packet: It is highly recommended that in order to make a complete and substantive application for review, the applicant should pay close attention to the following steps:
  - a. Conduct a compatibility analysis as described in §6.7 of this Ordinance.
  - b. Consult with staff if any criteria, measure, or provision is unclear or ambiguous.
3. File Application: For site plans that may be reviewed and approved administratively (minor site plans [C1]), applicants shall provide two (2) copies of a complete application packet for review. The applicant shall notice the review by posting a sign on the property for the period under which the application is being reviewed as per the requirements of §4.8 of this Ordinance.
4. Plan Review: Once application packet has been determined complete and fee is paid, the Planning staff will undertake a technical review of the plan and other information. This may



include a site visit and other research in order to conduct a thorough review of the proposal.

**Decision:** Staff shall, within fifteen (15) working days, make a decision regarding the application and shall provide the applicant with a Letter of Decision within this time frame. The staff may request an extension in writing from the applicant to this time frame in order to conduct additional research. If no extension is granted, the application shall be adjudicated with the information available.

## B. Planning Board Review Process

### 1. Pre Consultation and Development Review Committee

- a. Prior to submission, applicants are encouraged to pre-consult with planning staff to review the documents/ drawings required for the submission ~~and applicable design guidelines.~~
- b. All site plan projects shall be reviewed prior to application submittal to the Benton County Development Review Committee (DRC). Refer to the provisions of §4.9 of this Ordinance for DRC procedures.

**Commented [KG8]:** No design guidelines exist in Benton Co.

### 2. Preparation of Application Packet: It is highly recommended that in order to make a complete and substantive application for review, the applicant should pay close attention to the following steps:

- a. Conduct a compatibility analysis as described in §6.7 of this Ordinance.
- b. Consult with staff if any criteria, measure, or provision is unclear or ambiguous.

### 3. File Application: submit required number of paper copies of the site plan at 18"x24" ~~and one (1) copy of the site plan at 11" x 17"~~, and an electronic copy (.pdf file format), and any Computer Aided Design (CAD) files produced in support of the development project of the proposed application shall be submitted to the Benton County Planning Office ~~Division~~.

**Commented [KG9]:** Typical format for printing with Planning Board review packets during TAC/Public Hearing.

**Commented [KG10]:** Supports use of GIS systems to display proposals against existing ground conditions, to facilitate public discussion and deeper understanding of possible land use impacts.

### 4. Fees: Applicant shall submit required fees.

### 5. Subdivision: When the lot or tract is to be subdivided the developer shall further abide by the preliminary platting and final platting requirements as set forth in Chapter V of this Ordinance.

### 6. Notice: The ~~Planning staff and the~~ applicant shall give notice for public hearing ~~agenda~~ as provided in §4.8 of this Ordinance.

**Commented [KG11]:** Clarifies that applicant (not staff) gives notice for the public hearings.

### 7. Planning Board Review: Site plans applications shall be reviewed by the Planning Board at regular meetings, ~~with the first meeting being the including a t~~ Technical Advisory Committee, and ~~at the next meeting thereafter being the separate~~ public hearing. The action of the Board shall ~~take place~~ occur within sixty (60) days from ~~and after~~ the date ~~the a Site Plan Review~~ application is received ~~and accepted by the Case Manager for the plan approval~~ Planning staff, unless the applicant agrees in writing to an extension of time. The Planning Board will vote to approve, to

**Commented [KG12]:** Clarifies process for intake and review as it currently is implemented by Staff.

approve with conditions, or to ~~reject/deny~~ the ~~Site Plan~~ Application.

8. ~~Public Comment~~: Public comments concerning a ~~Site Plan application specified proposed development can may~~ be ~~made heard~~ at ~~the regularly scheduled Planning Board meeting(s) requisite public hearing~~.
9. ~~Site Plan Acceptance Approval or Rejection Denial~~: The Planning Board ~~will shall~~ approve ~~Site Plans applications~~ only where there is full compliance with the provision of this Ordinance or where any deviation from the Ordinance is explicitly waived or modified by the Board, ~~and only then~~ after a formal request by the applicant. ~~The Board may, during a public hearing, condition~~ the associated Site Plan revisions, to be reviewed by Planning Staff administratively. ~~The developer shall receive written notice in the form of a Letter of Decision of the approval or denial of the application for an approved site plan. One (1) copy of the approved or rejected plan, with conditions noted thereon, shall be returned to the developer/owner address on the application, approved by signature and dated by the Chair of the Planning Board. While the Board may allow for administrative review and approval by Planning Staff, the Planning Board shall specify, on the record, which revisions are required to satisfy a conditional approval. Should Staff determine that the materials needed to satisfy conditional approval exceed 'de minimis' in scope, the Board may require the submittal of new Site Plan review application. In the event of rejection/denial, the Planning Board, through Planning Staff, shall itemize note all deficiencies/conditions by item on the plan and Letter of in the Decision Letter.~~ Site plans that have been denied by the Planning Board ~~may~~ re-apply for approval as a new ~~Site Plan Review~~ application. ~~The revised plan, addressing the changes required by the Board, shall be reviewed as a new plan.~~
10. ~~Reasons for Rejection Denial~~: The Planning Board may deny the application because of noncompliance with items addressed in these regulations, incompatible development, protecting the public safety and health, or any violation of an existing state and/or county law, regulation, or ordinance.
11. ~~Decision Letter~~: ~~The property owner and/or owner-designated applicant, shall receive a Decision Letter, summarizing the approval or denial of the Site Plan application.~~
12. ~~Final Site Plan Signature~~: ~~For Site Plan applications that have been approved, five (5) copy of the approved plan, shall be signed and dated by the Chair of the Planning Board, and returned to the owner, or owner-designated applicant, to the address shown on the Site Plan review application.~~
11. ~~Recording Approved Site Plan~~: ~~The approved site plan shall be recorded with the County Recorder's office within 30 days of approval by the County Planning Board otherwise the approval is null and void.~~

§6.9 – RESERVED

**Commented [KG13]:** Clarifies process as currently implemented by Staff, and, provides details regarding 'conditional approval' and how post-public hearing administrative review is handled in those instances.

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**Commented [KG14]:** Placed as a separate step in the review and approval process, since is currently referenced, and, is proposed to be formally defined by Ordinance.

**Commented [KG15]:** Placed as a separate step in the review and approval process, since is currently referenced.

**Commented [KG16]:** Owner, Applicant, Recorder, Staff, Building Safety

**Commented [KG17]:** This was recommended by Staff and the PB during the 1/17/2018 TAC discussion. Also removed from Appendix 'J'.