

# CHAPTER 11: PERMIT AND SITE PLAN REQUIREMENTS

*(Amended 11/3/08)*

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## CHAPTER 11: PERMIT & SITE PLAN REQUIREMENTS

### Section 11.1 Purpose and Applicability

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#### 11.1.1 Purpose

The purpose of this chapter is to establish an orderly permitting process and a clear and comprehensive development process that is fair and equitable to all interests including the petitioners, affected neighbors, county staff, related agencies, the Planning Board, the Board of Adjustment, and the Board of Commissioners. The permitting section of this chapter is divided into two categories: Development permits and board approved permits.

#### 11.1.2 Applicability

No clearing, grading, filling, excavating land, constructing, moving, substantially altering buildings, signs, property, or structures may commence, and the use made of property may not be substantially changed, except upon issuance of and in accordance with one of the following permits:

### Section 11.2 Development Permits (PB 10-31, 3/21/11)

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Development permits are issued by the administrator, the county engineer, or the floodplain administrator. They are typically issued in conjunction with the development process and are generally tied to a specific parcel, the type of disturbance that will be taking place, and the physical features of the particular property that is being developed.

The following permits are considered development permits and are administratively approved:

- A. Zoning Permit – Issued by the administrator for uses represented by a “Z” in the Table of Permitted Uses (including signs);
- B. Fill Permit - Issued by the county engineer or his designee (for all instances of grading or filling higher than the adjacent grades); and,
- C. Flood Development Permit - Issued by the floodplain administrator (for any development activities located within special flood hazard areas, in conjunction with Chapter 6 of this ordinance).

### Section 11.3 Board Approved Permits

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Board approved permits are generally required for land uses which have unique qualities which warrant review and approval by either an appointed or elected board. They are considered part of the overall approval process and must proceed under a detailed approval process. These permits are approved quasi-judicially.

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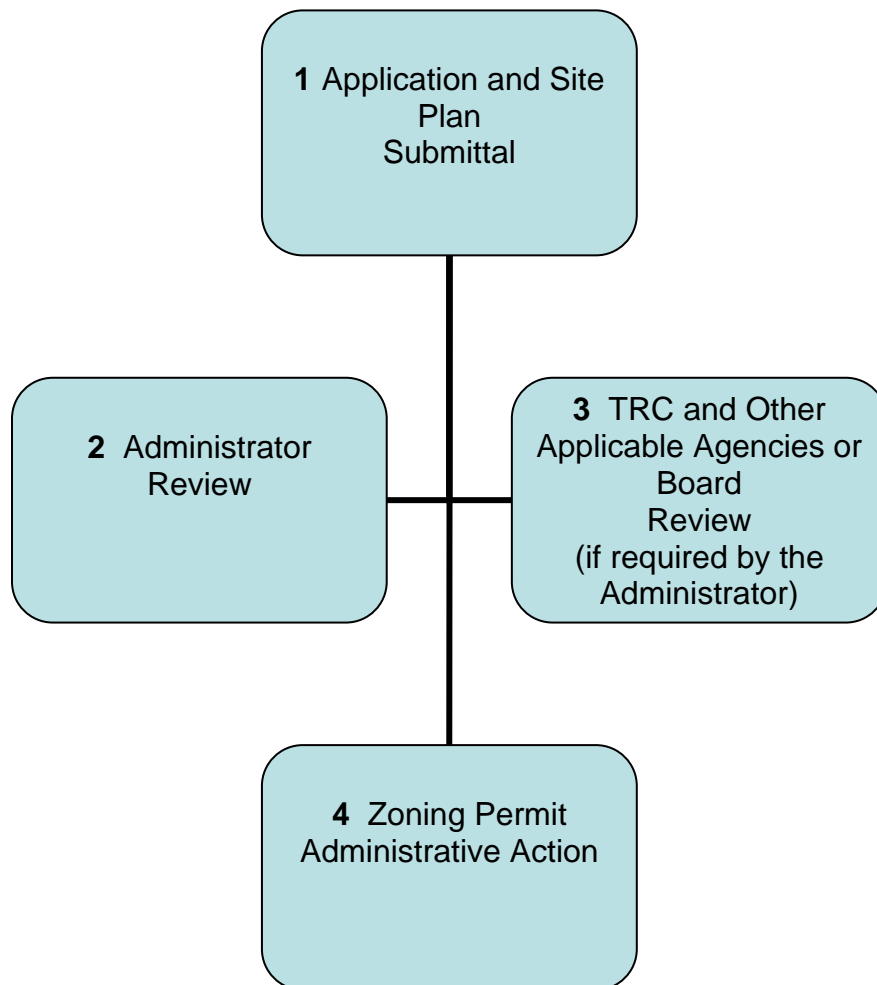
The following permits are considered board approved permits:

- A. Special Use Permit - Issued by the Board of Commissioners for uses represented by an “S” in the Permitted Uses Table; and,
- B. Conditional Use Permit – Issued by the Board of Adjustment for uses represented by a ‘C’ in the Permitted Uses Table.

### DEVELOPMENT PERMITS

#### Section 11.4 Zoning Permits

For new uses or a change of use permitted by right and indicated by a “Z” in the Permitted Uses Table or signs the following administrative review process shall apply:



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### A. Application and Site Plan Submittal

1. A complete application and site plan meeting the requirements of this chapter shall be submitted by the applicant. An application is complete when it contains all of the information that is necessary for the permit issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this ordinance. The administrator may require the applicant to submit additional information as necessary to make this determination. The applicant will be required to sign the zoning form as being a true reflection of what is existing and what is being proposed.
2. Upon receipt of a formal application for a zoning permit the administrator shall review the application and confer with the applicant to ensure that he understands the administrator's interpretation of the applicable requirements of this Ordinance, that he has submitted all of the information that he intends to submit, and that the application represents precisely and completely what he proposes to do.
3. It is not necessary that the application contain detailed construction drawings, so long as the plans provide sufficient information to allow the administrator to evaluate the application. However, detailed construction drawings may be required if certain elements of construction are involved. Failure to observe this requirement may result in permit revocation or other penalty as provided in Chapter 15.
4. Prior to the issuance of a zoning permit, verification must be submitted by the applicant that the lot will be served by either a state approved package plant or public sewer facility or a waste treatment system complying with the requirements of the Albemarle Regional Health Services, where applicable. This requirement shall not apply to camper lots in existence on the effective date of this ordinance, where the electrical power is interrupted on a seasonal basis and an electrical permit is required prior to resumption of power. Evidence of securing an improvements permit shall not constitute evidence of compliance with the requirements of any general use or overlay district within this ordinance.

### B. Administrator Review

The administrator shall review the application and site plan for compliance with the applicable requirements of this ordinance and the Development Review Process manual and inform the applicant of any deficiencies.

### C. TRC and Board Review

In cases other than residential uses, the planning staff may choose to have the Technical Review Committee or other agencies involved to review the submission.

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### D. Zoning Permit Administrative Action

The administrator shall issue the zoning permit unless he finds, after reviewing the application and consulting with the applicant as provided in this chapter that:

1. The use on the application is not permitted according to the Permitted Uses Table;
2. The application is incomplete; or,
3. If completed as proposed in the application, the development will not comply with this ordinance (not including those requirements concerning which a variance has been granted or those that the applicant is not required to comply with under the circumstances specified in Chapter 16 Nonconformities).

### 11.4.1 General Provisions for Zoning Permits

- A. Issuance of a zoning permit authorizes the recipient to commence the activity resulting in a change in use of the land or (subject to obtaining a building permit), to commence work designed to construct, erect, move, or substantially alter buildings or other substantial structures.
- B. Applications for zoning permits shall be submitted by persons having the legal authority to take action in accordance with the permit. The administrator may require an applicant to submit evidence of his authority to submit the application whenever there appears to be a reasonable basis for questioning this authority.

### 11.4.2 Certificate of Compliance

- A. For all developments, excluding single-family residential uses, prior the issuance of a certificate of compliance, the administrator or his designee shall conduct a final zoning inspection to ensure that the approved plan has been followed and all required improvements have been installed to county standards.

### Section 11.5 Fill Permits (PB 10-31, 3/21/11)

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- A. A fill permit shall be required for filling and/or grading a lot above adjacent grades. This permit shall be issued by the county engineer or his/her designee. The following shall be exempt from this section:
  1. Residential lots in planned unit developments.
  2. Lots that received sketch plan approval after April 21, 2003 that have existing lot line swales.

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- B. The fill permit application shall be filed with the county engineer or his designee prior to any site work being done. Two copies of the stormwater management plan shall be filed with the permit application.
- C. A stormwater management plan shall be prepared by a North Carolina licensed Professional Engineer (PE), licensed surveyor or landscape architect and contain architectural and engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the property and the measures planned to comply with the requirements of this ordinance. The stormwater management plan shall include, but not be limited to:
1. Adjacent property grades;
  2. Approximate depth of seasonal high water table;
  3. Existing elevations sufficient to determine the drainage patterns on site and on adjoining sites (i.e. contours in one foot intervals);
  4. Locations and elevations of the adjoining street pavement, shoulders, ditches, drainage systems, upstream and downstream driveway culverts;
  5. Proposed elevations of the top of bank and toe of slope and limits for fill necessary to construct the dwelling, including driveway access, shall be delineated;
  6. Detention shall be provided to capture a four inch rainfall event from the built-upon area within the drainage area. Drainage area for the purpose of the detention sizing shall include all built-upon area on the subject lot and any runoff received from built-upon areas within 30 feet of the subject property line. All runoff from built-upon area must be directed into the stormwater management system;
  7. Proposed methods for stabilizing and maintaining stormwater management improvements;
  8. Proposed stormwater management improvements;
  9. Location of proposed improvements including septic systems; and,
  10. An Operation and Maintenance Plan approved by the county and maintained by the property owner. Operation and maintenance of all areas shall include sediment removal, mowing and revegetation, immediate repair of erosion, debris removal, and unclogging of any structures.
  11. Certification of Stormwater Management:

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On the site plan entitled \_\_\_\_\_, stormwater drainage improvements shall be installed according to these plans and specifications and approved by Currituck County. Currituck County assumes no responsibility for the design, maintenance or the guaranteed performance of the stormwater drainage improvements.

\_\_\_\_\_  
Registered Land Surveyor/Civil Engineer

\_\_\_\_\_  
Date

- D. Prior to issuance of the fill permit, an on-site inspection of the project site may be scheduled by the county engineer or his designee to evaluate the pre-disturbed conditions of the site and review and discuss the proposed land disturbance activity.
  
- E. After issuance of the fill permit, an on-site inspection shall be conducted by the county engineer or his designee to ensure adequate erosion control measures and project activities are in compliance with this ordinance. When the county engineer or his designee determines that erosion and sedimentation will likely continue, despite installation and maintenance of protective practices, the person conducting the land disturbance activity will be required to undertake such additional protective measures as are required to meet permit requirements.

**Section 11.6 Flood Development Permit**

See Section 6.3 for Flood Development Permit Requirements.

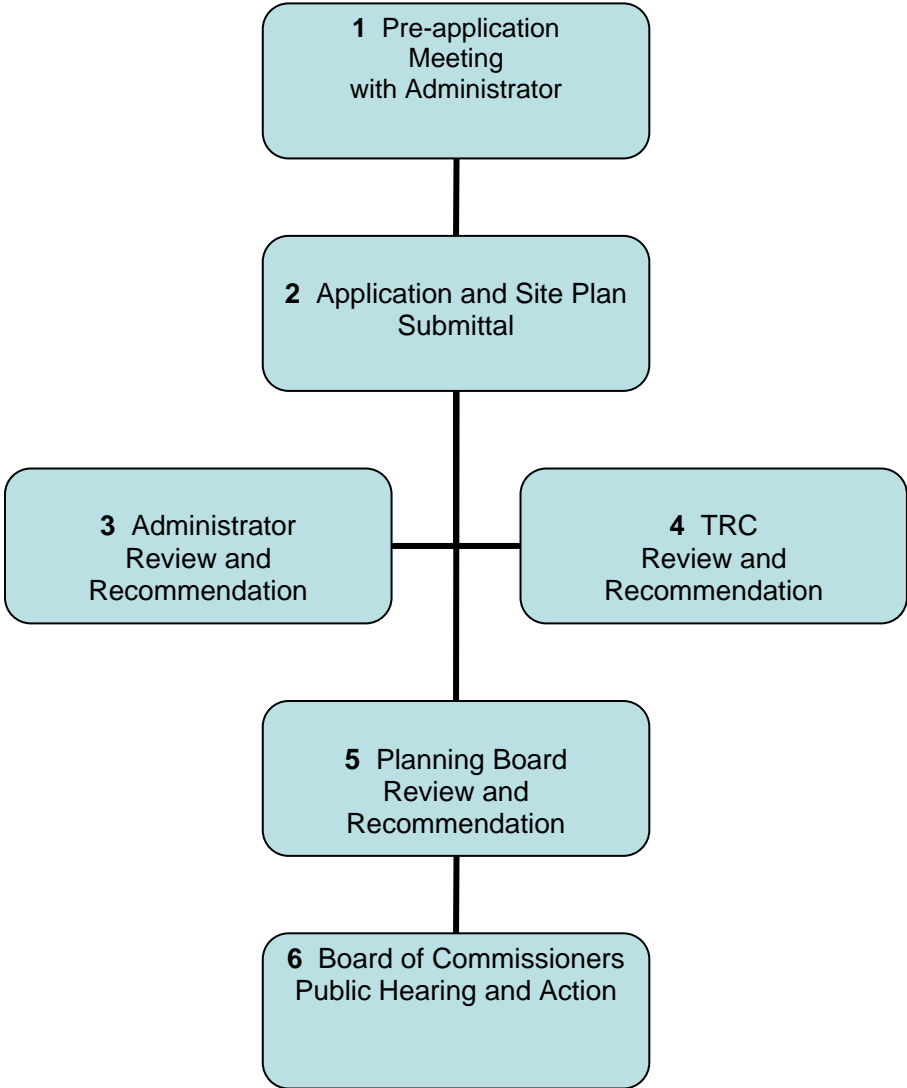
**BOARD APPROVED PERMITS**

**Section 11.7 Special Use Permits**

A special use permit, which is issued by the Board of Commissioners, allows the applicant to make use of property in accordance with requirements of this ordinance, as well as any additional requirements imposed by the board through the review process. A special use permit is quasi-judicial in nature and must follow the process described in the following subsections.

**11.7.1 Review Process**

For uses permitted with special use permits and indicated by an “S” in the Permitted Uses Table in Chapter 2, the following process shall apply. Subdivisions that require a special use permit shall follow the major subdivision review process as set forth in Chapter 10 but are subject to the other provisions of this section.



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### A. Pre-application Meeting

The applicant shall meet with the administrator for a determination of whether the approval process authorized under this section can be utilized.

### B. Application and Site Plan Submittal

1. A complete application and site plan meeting the requirements of Section 11.13 shall be submitted by the applicant. An application is complete when it contains all of the information that is necessary for the permit issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this ordinance. The administrator, Technical Review Committee, Planning Board, or Board of Commissioners may require the applicant to submit additional information as necessary to make this determination.
2. It is recognized that each development is unique, and therefore the permit issuing authority may allow less information or require more information to be submitted according to the needs of the particular case. The applicant may rely in the first instance on the recommendations of the administrator as to whether more or less information should be submitted.
3. The administrator shall develop application forms, instructional sheets, checklists, or other techniques or devices to assist applicants in understanding the application requirements and the form and type of information that must be submitted. In classes of cases where a minimal amount of information is necessary to enable the administrator to determine compliance with this ordinance, the administrator shall develop standard forms that will expedite the submission of the necessary plans and other required information.

### C. Administrator Review and Recommendation

The administrator shall present a written report with his findings concerning the application's compliance with this ordinance, the development review process manual, as well as any staff recommendations for additional requirements to be imposed by the board. If the staff report proposes a finding or conclusion that the application fails to comply with this ordinance, it shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.

### D. TRC Review and Recommendation

The TRC's recommendation shall be included in the written staff report.

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### E. Planning Board Review and Recommendation

1. The planning staff will mail a notice to all adjacent property owners within 200 feet of the subject property a minimum of 10 days prior to the Planning Board meeting at which the request is to be heard.
2. The Planning Board shall have two months from the initial referral of the request by the administrator to forward its recommendation to the Board of Commissioners. If the Planning Board should fail to act on any proposed amendment within two months after it is referred to the board, then the request shall be forwarded to the Board of Commissioners without a recommendation. In addition, at the request of the Planning Board, the board may continue the public hearing to allow more time to consider the application.
2. The Planning Board may, in its discretion, hear from the applicant or members of the public.
3. After reviewing the application, the Planning Board shall report to the Board of Commissioners whether it concurs in whole or in part with the staff's proposed findings and conditions, and to the extent there are differences the Planning Board shall propose its own recommendations and the reasons therefore.
4. In response to the Planning Board's recommendations, the applicant may modify his application prior to submission to the Board of Commissioners, and the staff may likewise revise its recommendations.

### F. Board of Commissioners Public Hearing and Action on Special Use Permit

1. The Board of Commissioners may not hold a public hearing on a special use permit application until the Planning Board has had an opportunity to consider the original application.
2. Notice of the public hearing shall be given as follows:
  - a. The planning staff shall mail a notice to all property owners within 200 feet of the extreme limits of the subject site as their names appear in the county tax record at least 10 days, but not more than 25 days, prior to the hearing. The notice shall include the date, time, and place of the Board of Commissioners hearing; and the nature of the application.
  - b. The department shall provide notice to the general public of the public hearing by publishing the date, time, place, and nature of the application at least ten days, but not more than 25 days, prior to the hearing in a newspaper of general circulation in the county.

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- c. The department will also post a notice outlining the date, time, place, and nature of the application in a conspicuous location on the property.
  - d. All required notices shall include the following:
    - i. state the date, time, and place of the applicable meeting/public hearing;
    - ii. summarize the nature and character of the proposal;
    - iii. if the proposal involves a change in zoning district classification, reasonably identify the property whose classification would be affected by the amendment;
    - iv. state the time and place or places within the county where the text, maps, and plans for the proposal may be examined;
    - v. the full text of the amendment can be obtained from the Planning Department; and,
    - vi. state that substantial changes in the proposal may be made following the public hearing.
3. In instances where an applicant elects to postpone consideration of a proposal after required notification has been accomplished, the planning staff shall be responsible for resending notice to adjacent property owners with the new meeting and/or hearing date as required above. The applicant shall be responsible for any applicable fees to the county for re-advertisement.
4. The administrator shall make every reasonable effort to comply with the notice provisions set forth in this section. However, it is not the board's intention that failure to comply with any of the notice provisions that are not statutorily required shall render any decision invalid.
5. Before making a decision on a special use permit, amended special use permit, or a petition from the administrator to revoke a special use permit, the Board of Commissioners shall hold a hearing on the appeal or application.
6. The hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments and ask questions of persons who testify.
7. The Board of Commissioners may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross examination of witnesses so that the matter at issue may be heard and decided without undue delay.
8. Once a public hearing is opened, the hearing board may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a

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continued hearing need by published unless a period of eight weeks or more elapses between hearing dates.

9. The board shall consider whether the application is complete. If no member moves that the application be found incomplete (specifying either the particular type of information lacking or the particular requirement with respect to which the application is incomplete), then this shall be taken as an affirmative finding by the board that the application is complete.
10. The board shall consider whether the application complies with all of the applicable requirements of this ordinance. If a motion to this effect passes, the board shall make findings supporting the motion. If such a motion fails or is not made, then a motion shall be made that the application be found not in compliance with one or more of the requirements of this ordinance. Such a motion shall specify the particular requirements the application fails to meet. Separate votes may be taken with respect to each requirement not met by the application. It shall be conclusively presumed that the application complies with all requirements not found by the board to be unsatisfied through this process.
11. If the board concludes that the application fails to comply with one or more requirements of this ordinance, the application shall be denied. If the Board of Commissioners concludes that all such requirements are met, it shall issue the permit unless it adopts a motion to deny the application for one or more of the reasons set forth within this ordinance. Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.
12. The Board of Commissioners shall propose the specific findings of fact as listed below, based upon the evidence submitted. All of the findings shall be made in the affirmative for the Board of Commissioners to issue the special use permit.
  - a. The application is complete.
  - b. The proposed use is among those listed in the Table of Permissible Uses as a special use indicated with an "S".
  - c. The conditions proposed meet or exceed the minimum requirements of this ordinance.
  - d. The special use will not endanger the public health or safety.
  - e. The special use will not injure the value of adjoining or abutting property and will be in harmony with the area in which it is located.

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- f. The special use will be in conformity with the Land Use Plan or other officially adopted plan.
  - g. The special use will not exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, law enforcement, and other county facilities. Applicable state standards and guidelines shall be followed for determining when public facilities are adequate. Such facilities must be in place or programmed to be in place within two years after the initial approval of the plan (sketch plan in the case of major subdivisions).
13. All persons who intend to present evidence to the permit issuing board, rather than arguments only, shall be sworn.
14. The burden of presenting a complete application required by this section to the Board of Commissioners shall be upon the applicant. However, unless the board informs the applicant at the hearing in what way the application is incomplete and offers the applicant an opportunity to complete the application (either at that meeting or at a continuation hearing), the application shall be presumed to be complete. The presumption herein created shall not preclude the administrator or any board from re-evaluating any application based upon inadequacies revealed at a later date.
15. Once a completed application has been submitted, the burden of presenting evidence to the permit issuing board sufficient to lead it to conclude that the application should be denied for any reasons stated in this chapter shall be upon the party or parties urging this position, unless the information presented by the applicant in his application and at the public hearing is sufficient to justify a reasonable conclusion that a reason exists to so deny the application. However, nothing herein shall require the board to approve any application unless the same shall be in the best interests of the county.
16. The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this ordinance remains at all times on the applicant. The burden of persuasion on the issue of whether the application should be turned down for any of the reasons set forth in this chapter rests on the party or parties urging that the requested permit should be denied.
17. All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (crucial findings) shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, but in no case may crucial findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.

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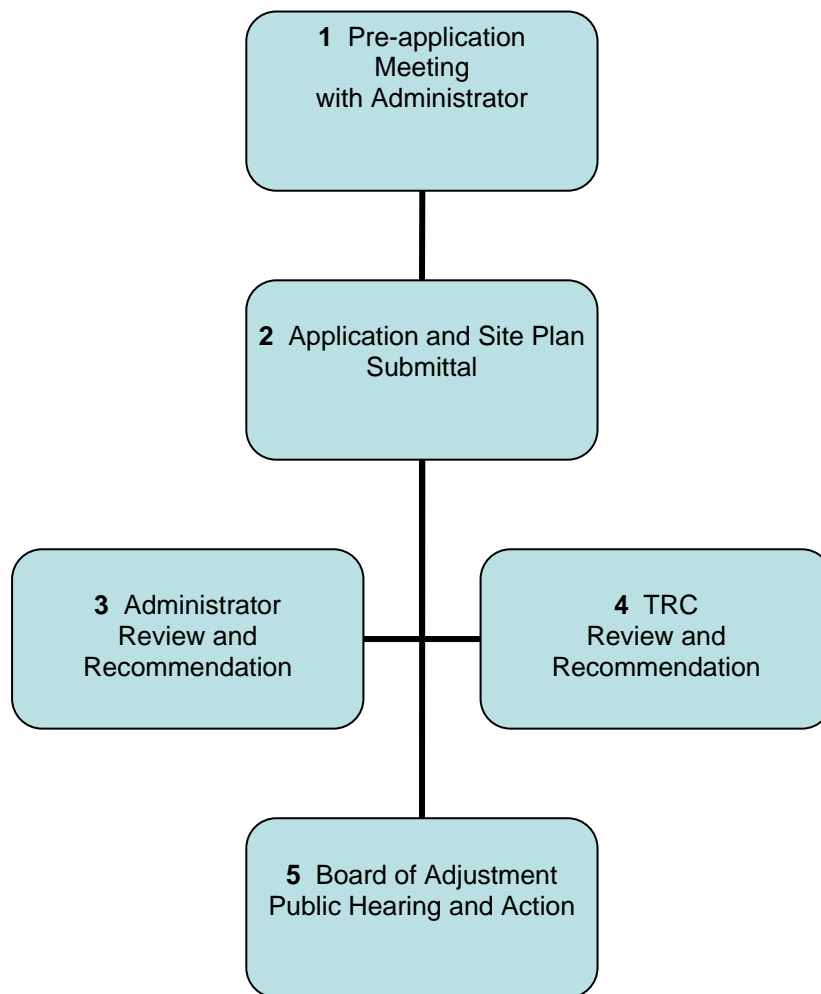
18. The Board of Commissioners may not attach additional conditions that modify or alter the specific requirements set forth in this ordinance unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements.
19. The Board of Commissioners may attach to a permit a condition limiting the permit to a specified duration.
20. In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Board of Commissioners, the applicant may agree to modify his application, including the plans and specifications submitted. Unless such modifications are so substantial or extensive that the board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the planning staff.
21. All additional conditions or requirements shall be included on the permit.
22. In the case of a subdivision or a multifamily development at the preliminary plat/special use stage, the Board of Commissioners may establish time limits on the number of lots/units available for development to assure adequate public facilities are available.
23. Any decision shall be reduced to writing and mailed or transmitted to the applicant or appellant and all other persons who make a written request for a copy. In addition to a statement of the board's ultimate disposition of the case and any other information deemed appropriate, the written decision shall state the board's findings and conclusions, as well as supporting reasons or facts.
24. A tape recording shall be made of all hearings, and such recordings shall be kept for at least two years. Accurate minutes shall also be kept of all such proceedings, but a transcript need not be made. Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the county for at least two years.

**Section 11.8 Conditional Use Permits**

A conditional use permit, which is issued by the Board of Adjustment, allows the applicant to make use of property in accordance with requirements of this ordinance, as well as any additional requirements imposed by the board through the approval process. A conditional use permit is quasi-judicial in nature and must follow the process described in the following subsections.

**11.8.1 Review Process**

For uses permitted with conditional use permits and indicated by a “C” in the Table of Permissible Uses in Chapter 2, the following review process shall apply.



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### A. Pre-application Meeting

The applicant shall meet with the administrator for a determination of whether the review process authorized under this section can be utilized.

### B. Application and Site Plan Submittal

1. A complete application and site plan meeting the requirements of this chapter shall be submitted by the applicant. An application is complete when it contains all of the information that is necessary for the permit issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this ordinance. The administrator or Board of Adjustment may require the applicant to submit additional information as necessary to make this determination.
2. It is recognized that each development is unique, and therefore the permit issuing authority may allow less information or require more information to be submitted according to the needs of the particular case. The applicant may rely in the first instance on the recommendations of the administrator as to whether more or less information should be submitted.
3. The administrator shall develop application forms, instructional sheets, checklists, or other techniques or devices to assist applicants in understanding the application requirements and the form and type of information that must be submitted. In classes of cases where a minimal amount of information is necessary to enable the administrator to determine compliance with this ordinance, the administrator shall develop standard forms that will expedite the submission of the necessary plans and other required information.

### C. Planning Staff Review and Recommendation

The administrator shall present a written report with his findings concerning the application's compliance with this ordinance, the Development Review Process manual, as well as any staff recommendations for additional requirements to be imposed by the board. If the staff report proposes a finding or conclusion that the application fails to comply with this ordinance, it shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.

### D. TRC Review and Recommendation

The TRC's recommendation shall be included in the written staff report.

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### E. Board of Adjustment Public Hearing and Action on Conditional Use Permit

1. Notice of the public hearing shall be given as follows:
  - a. The planning staff shall provide notice to all property owners within 200 feet of the extreme limits of the subject site as their names appear in the county tax record at least 10 days, but not more than 25 days, prior to the hearing. The notice shall include the date, time, place of the board meeting, and the nature of the application.
  - b. The department shall provide notice to the general public of the public hearing by publishing the date, time, place, and nature of the application at least 10 days, but not more than 25 days, prior to the hearing in a newspaper of general circulation in the county.
  - c. The department will also post a notice outlining the date, time, place, and nature of the application in a conspicuous location on the property.
  - d. All required notices shall include the following:
    - i. state the date, time, and place of the applicable meeting/public hearing;
    - ii. summarize the nature and character of the proposal;
    - iii. if the proposal involves a change in zoning district classification, reasonably identify the property whose classification would be affected by the amendment;
    - iv. state the time and place or places within the county where the text, maps, and plans for the proposal may be examined.
    - v. the full text of the amendment can be obtained from the Planning Department; and,
    - vi. state that substantial changes in the proposal may be made following the public hearing.
2. In instances where an applicant elects to postpone consideration of a proposal after required notification has been accomplished, the planning staff shall be responsible for resending notice to adjacent property owners with the new meeting and/or hearing date as required above. The applicant is responsible for any applicable fees to the county for re-advertisement.
3. The administrator shall make every reasonable effort to comply with the notice provisions set forth in this section. However, it is not the board's intention that failure to comply with any of the notice provisions that are not statutorily required shall render any decision invalid.

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4. Before making a decision on a conditional use permit, amended conditional use permit, or a petition from the administrator to revoke a conditional use permit, the Board of Adjustment shall hold a hearing on the appeal or application.
5. The hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments and ask questions of persons who testify.
6. The Board of Adjustment may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross examination of witnesses so that the matter at issue may be heard and decided without undue delay.
7. Once a public hearing is opened, the hearing board may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published unless a period of eight weeks or more elapses between hearing dates.
8. The board shall consider whether the application is complete. If the board concludes that the application is incomplete and the applicant refuses to provide the necessary information, the application shall be denied. A motion to this effect shall specify either the particular type of information lacking or the particular requirements with respect to which the application is incomplete. A concurred vote by two members of the board shall constitute the board's finding on this issue. If a motion to this effect is not made and concurred in by at least two members, this shall be taken as an affirmative finding by the board that the application is complete.
9. The board shall consider whether the application complies with all of the applicable requirements of this ordinance. If a motion to this effect passes by the necessary four-fifths vote, the board shall make findings supporting the motion. If such a motion fails to receive the necessary four-fifths vote or is not made, then a motion shall be made that the application be found not in compliance with one or more requirements of this ordinance. Such a motion shall specify the particular requirements the application fails to meet. A separate vote may be taken with respect to each requirement not met by the application, and the vote of the number of members equal to more than one-fifth of the board membership (excluding vacant seats) in favor of such a motion shall be sufficient to constitute such motion a finding of the board. It shall be conclusively presumed that the application complies with all requirements not found by the board to be unsatisfied through this process. If the board concludes that the application fails to meet one or more of the requirements of this ordinance, the application shall be denied.

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10. A motion shall propose the specific findings of fact listed below, based upon the evidence submitted. A motion to approve shall constitute a four-fifths majority of the Board of Adjustment in order to issue the conditional use permit. Vacant or disqualified seats shall not be counted. All of the findings shall be made in the affirmative for the Board of Adjustment to issue the conditional use permit.
  - a. The application is complete.
  - b. The proposed use is among those listed in the Table of Permissible Uses as a conditional use indicated with a "C".
  - c. The conditions proposed meet or exceed the minimum requirements of this ordinance.
  - d. The conditional use will not endanger the public health or safety.
  - e. The conditional use will not injure the value of adjoining or abutting property and will be in harmony with the area in which it is located.
  - f. The conditional use will be in conformity with the Land Use Plan, Thoroughfare Plan, or other officially adopted plan.
  - g. The conditional use will not exceed the county's ability to provide adequate public facilities, including, but not limited to, schools, fire and rescue, law enforcement, and other county facilities. Applicable state standards and guidelines shall be followed for determining when public facilities are adequate. Such facilities must be in place or programmed to be in place within two years after the initial approval of the plan.
11. If the board concludes that all such requirements are met, it shall issue the permit.
12. A motion to deny shall be made if all the findings of fact are not met. Such a motion shall propose specify findings, based upon the evidence submitted, justifying such a conclusion. Since such a motion is not in favor of the applicant, it is carried by a simple majority.
13. All persons who intend to present evidence to the permit issuing board, rather than arguments only, shall be sworn.
14. The burden of presenting a complete application required by this chapter to the Board of Adjustment shall be upon the applicant. However, unless the board informs the applicant at the hearing in what way the application is incomplete and offers the applicant an opportunity to complete the application (either at that meeting or at a continuation hearing), the application shall be

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- presumed to be complete. The presumption herein created shall not preclude the Administrator or any Board from re-evaluating any application based upon inadequacies revealed at a later date.
15. Once a completed application has been submitted, the burden of presenting evidence to the permit issuing board sufficient to lead it to conclude that the application should be denied for any reasons stated in this chapter shall be upon the party or parties urging this position, unless the information presented by the applicant in his application and at the public hearing is sufficient to justify a reasonable conclusion that a reason exists to so deny the application. However, nothing herein shall require the board to approve any application unless the same shall be in the best interests of the county.
  16. The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this ordinance remains at all times on the applicant. The burden of persuasion on the issue of whether the application should be turned down for any of the reasons set forth in this chapter rests on the party or parties urging that the requested permit should be denied.
  17. All findings and conclusions necessary to the issuance or denial of the requested permit (crucial findings) shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, but in no case may crucial findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.
  18. The Board of Adjustment may not attach additional conditions that modify or alter the specific requirements set forth in this ordinance unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements.
  19. The Board of Adjustment may attach to a permit a condition limiting the permit to a specified duration.
  20. All additional conditions or requirements shall be included on the permit.
  21. The Board of Adjustment may, by general rule applicable to all cases or any class of cases, or on a case by case basis, refer applications to the Planning Board to obtain its recommendations.
  22. Any decision shall be reduced to writing and mailed by certified mail return receipt requested to the applicant or appellant and all other persons who make a written request for a copy. In addition to a statement of the board's ultimate disposition of the case and any other information deemed

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appropriate, the written decision shall state the board's findings and conclusions, as well as supporting reasons or facts.

23. A tape recording shall be made of all hearings, and such recordings shall be kept for at least two years. Accurate minutes shall also be kept of all such proceedings, but a transcript need not be made. Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the county for at least two years.

### **Section 11.9 Amendments to Permits (PB 10-22, 8/2/10)**

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A developer requesting approval of changes shall submit a written request for such approval to the administrator, which request shall identify the changes. The administrator shall determine if the amendment is minor or major.

#### **11.9.1 Minor Amendments**

- A. Minor amendments to the permit (including approved plans) issued by the Board of Commissioners, the Planning Board, the Board of Adjustment, or the administrator are permissible and the administrator may authorize such minor changes.
- B. A change is minor if it has no discernible impact on neighboring properties, the general public, or those intended to occupy or use the proposed development. Examples of minor changes are reduction in density, increase of open space, slight lot line realignments, slight relocation of streets, and changes that have no substantial impact on neighboring properties. This is not intended to be an all inclusive list.

#### **11.9.2 Major Amendments (PB 10-22, 8/2/10)**

- A. Major amendments to the permit (including approved plans) are permissible with the approval of the permit issuing authority and shall be processed as new applications. If such requests are required to be acted upon by the Board of Commissioners, the Planning Board, or Board of Adjustment, new conditions may be imposed, but the applicant retains the right to reject such additional conditions by withdrawing the request for an amendment and may then proceed in accordance with the previously approved permit.
- B. For purposes of this section, major amendments are those that have substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development, such as an increase in density, decrease of open space, changing a zoning designation, major shifting of lot lines, and major shifting of streets. This is not intended to be an all inclusive list.

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### **Section 11.10 Expiration of Permits and Completion of Development**

This section shall be applicable to permits issued prior to November 16, 1992.

#### **11.10.1 Zoning Permits**

- A. Zoning permits shall expire automatically if, within one year after the issuance of such permits:
  - 1. The use authorized by such permit has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use; or,
  - 2. Less than five percent of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such permits has been completed on the site. With respect to phased development, this requirement shall apply only to the first phase.
- B. If, after some physical alteration to land or structures begins to take place, such work is discontinued for a period of one year, then the zoning permit authorizing such work shall immediately expire.

**11.10.2 Special Use and Conditional Use Permits**

- A. Special use and conditional use permits shall expire automatically if, within two years after the issuance of such permits:
  - 1. The use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use;
  - 2. A final plat, if required, has not been filed for approval and less than five percent of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such permits has been completed on the site. With respect to phased development, this requirement shall apply only to the first phase; or,
  - 3. In the case where a final plat is not required, less than five percent of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such permits has been completed on the site.
  
- B. The permit issuing authority may extend one time for a period up to two years the date when a permit would otherwise expire, if it concludes that:
  - 1. The permit has not yet expired,
  - 2. The permit recipient has proceeded with due diligence and in good faith; and,
  - 3. Conditions have not changed so substantially as to warrant a new application. Successive extensions shall not be granted. All such extensions may be granted without resort to the formal processes and fees required for a new permit.
  
- C. In cases when, because of weather conditions or other factors beyond the control of the special use or conditional use permit recipient (exclusive of financial hardship) it would be unreasonable to require the permit recipient to comply with all of the requirements of this ordinance before commencing the intended use of the property or occupying any buildings or selling lots in a subdivision (with the exception of water and sewer plant systems), the permit issuing board may authorize the commencement of the intended use or the occupancy of buildings or the sale of subdivision lots (insofar as the requirements of this ordinance are concerned) if the permit recipient meets the conditions of installation or guarantee of improvements as set forth in Chapter 10 as applicable in a manner satisfactory to the county to ensure that all of these requirements will be fulfilled within a reasonable period (not to exceed six months).

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- D. When the board imposes additional requirements upon the permit recipient in accordance with this chapter or when the developer proposes in the plans submitted to install amenities beyond those required by this ordinance, the board may authorize the permittee to commence the intended use of the property or to occupy any building or to sell any subdivision lots before the additional requirements are fulfilled or the amenities installed if it specifies a date by which or a schedule according to which such requirements must be met or each amenity installed and if it concludes that compliance will be ensured as the result of any one or more of the following:
1. The permit recipient complies with the conditions of installation or guarantee of improvements as set forth in Chapter 10 as applicable in a manner satisfactory to the board;
  2. A condition is imposed establishing an automatic expiration date on the permit, thereby ensuring that the permit recipient's compliance will be reviewed when application for renewal is made; or,
  3. The nature of the requirements or amenities is such that sufficient assurance of compliance is given as contained in Chapter 15 Administration.

### **Section 11.11 Effect of Permit on Successors and Assigns**

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Zoning permits authorize the permittee to make use of land and structures in a particular way. Such permits are transferable. However, so long as the land or structures or any portion thereof covered under a permit continues to be used for the purposes for which the permit was granted, then:

- A. No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit; and,
- B. The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit was obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued, so long as the persons who subsequently obtain an interest in the property had actual or record of the existence of the permit at the time they acquired their interest.

**Section 11.12 Vested Rights**

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- A. A zoning vested right shall be deemed established upon the valid approval or conditional approval by the Board of Commissioners or the Board of Adjustment, as applicable, of a site specific development plan, following notice and public hearing.
  
- B. For purposes of these regulations, a site specific development plan shall constitute any one of the following approvals:
  - 1. Conditional use permit granted by the Board of Adjustment.
  - 2. Special use permit granted by the Board of Commissioners except for subdivisions.
  - 3. For major subdivisions, an approved preliminary plat and special use permit.
  - 4. Approval of a commercial site plan by the Board of Commissioners.
  
- C. A site specific development plan shall be deemed approved upon the effective date of the approval authority's action or ordinance relating thereto. A zoning right that has been vested as provided in this chapter shall remain vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site specific development plan unless expressly provided by the approval authority at the time the amendment or modification is approved.
  - 1. The establishment of a zoning vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type and intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land use regulation by the county, including, but not limited to building, fire, plumbing, electrical and mechanical codes. Otherwise, applicable new or amended regulations shall become effective with respect to property that is subject to a site specific development plan upon the expiration or termination of the vested right in accordance with this chapter.
  - 2. A zoning vested right is not a personal right, but shall be attached to and run with the applicable property. After approval of a site specific development plan, all successors to the original landowner shall be entitled to exercise such right while applicable.

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3. A zoning right that has been vested as provided in this chapter shall terminate:
  - a. At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been issued;
  - b. With written consent of the affected landowner;
  - c. Upon findings by the Board of Commissioners, by ordinance after notice and public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan;
  - d. Upon payment to the affected landowner of compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the county, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action;
  - e. Upon findings by the Board of Commissioners, by ordinance after notice and a hearing, that a landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval authority of the site specific development plan; or,
  - f. Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site specific development plan, in which case the approval authority may modify the affected provisions, upon finding that the change in state or federal law has a fundamental effect on the plan, by ordinance after notice and hearing.

### **Section 11.13 Site Plan Requirements**

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#### **11.13.1 Pre-Application Meeting**

Before submitting any commercial site plans to the county for review, the applicant shall be required to schedule a pre-application meeting with the administrator. The purpose of this conference is to provide assistance and guidance to the developer and to outline the review process and regulations that will have an impact on the proposal. The pre-application meeting is a non-binding and informal review of a development proposal intended to provide information to the applicant on the procedures and policies of Currituck County and does not confer upon the applicant any development rights.

**11.13.2 General Survey and Site Plan Requirements**

The following shall apply to all site plans:

- A. Site plans may be required from applicants prior to issuance of any permit by the county.
- B. Lots 20,000 square feet or smaller, shall require a professional survey/site plan, prepared by a NC licensed surveyor, engineer, architect, or landscape architect, excluding the placement of mobile homes in mobile home parks and accessory structures. Surveys/site plans shall include the following information:
  - 1. Boundary survey.
  - 2. Site plan shall show lot boundary and setbacks from the proposed principal building to all property lines.
  - 3. Drawn to a scale of 1 inch = 50 feet or larger.
  - 4. If the principal building is located within one foot of any required building setback line(s) an “as-built” survey shall be required prior to the issuance of a certificate of compliance (COC). During construction, the building inspector may require field verification of setbacks by a licensed North Carolina surveyor.

**11.13.3 Single-Family Residential Individual Lot Site Plan Requirements**

- A. Single-family residential site plans for individual lots shall be drawn with an approximate scale, so that reviewing agents can determine that all requirements of the ordinance are met. Professional renderings, prepared by a NC licensed surveyor, engineer, architect, or landscape architect, are only required for lots that are 20,000 square feet or smaller.
- B. The following minimum information shall be included on the site plan:
  - 1. Lot/parcel dimensions.
  - 2. Zoning designation.
  - 3. All property line setback requirements.
  - 4. All existing physical features (structures, buildings, streets, roads, etc.).
  - 5. Location and dimensions of proposed construction.

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- 6. Location and dimensions of driveway and type of surface material.
- 7. Location of septic system, well or water tap.
- 8. Any additional information as required by the reviewing agents.
- 9. Comparison of how the proposed development relates to the maritime forest guide (if located in the Outer Banks Overlay District).
- 10. Topographic/grading plan (shown in one foot intervals) shall be required when changes in the existing grade/natural grade of the property are proposed. At a minimum, the plan shall indicate the location and depth of the changes to the existing grade/natural grade and contain the following certificate:

I, \_\_\_\_\_, owner/agent do hereby certify that I will develop the property in accordance with the approved plans which will be constructed or maintained so that surface waters from such development are not unreasonably collected and channeled onto lower adjacent properties at such locations or at such volumes as to cause substantial damage to such lower adjacent properties. In addition, the development will be constructed or maintained so that it will not unreasonably impede the natural flow of water from higher adjacent properties across such development, thereby unreasonably causing substantial damage to such higher adjacent properties.

Date:\_\_\_\_\_ Owner/Agent:\_\_\_\_\_

- C. All newly installed driveway culverts and the ditch section fronting the property shall be certified as being on grade with the existing roadside ditch as verified by upstream and downstream culvert inverts. When associated with new construction, the certification shall be submitted prior to the issuance of the certificate of compliance.

**11.13.4 Commercial Site Plan Requirements**

See Development Review Process Manual