

ARTICLE 3

DEVELOPMENT REVIEW PROCEDURES

SEC. 3.1 GENERAL

3.1.1 Application Forms

Every application for development approval shall be in a form specified by the Danville-Boyle Planning and Zoning Commission.

3.1.2 Standard Application Submission Cycle

Applications that will be reviewed by the Danville-Boyle Planning and Zoning Commission or the Boyle County Board of Adjustments shall be filed at least 21 days in advance of the scheduled public hearing, in order to allow adequate time for staff review and preparation of a staff report.

3.1.3 Application Fees

A. No application shall be accepted by the Danville-Boyle Planning and Zoning Commission until the established fee has been paid. This nonrefundable fee may be adjusted periodically by the Danville-Boyle Planning and Zoning Commission Planning to defray the actual cost of processing the application and providing public notice.

B. No application fee shall be required when a text or map amendment is being proposed by the Danville-Boyle Planning and Zoning Commission or any member government.

3.1.4 Completeness of Application

No application shall be processed until it has been deemed complete. The Director shall have 5 working days following the submission of the application to determine its completeness. After that review period, the applicant may request a list of any deficiencies in the application in writing. The application shall not be scheduled for a public hearing until all deficiencies are corrected.

3.1.5 Public Notice

A. Public notice shall be provided in accordance with the following table.

Procedure	Published	Mailed	Posted
Variance Application	✓	✓	–
Conditional Use Permit	✓	✓	✓
Zoning Map Amendment	✓	✓	✓
Zoning Text Amendment	✓	–	–
Site Development Plan/ Amendment	✓	–	–
Local Historic Site/ District Designation	✓	✓	✓
Telecommunication Towers	✓	✓	✓

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- B. Published Notice.** When required above, notice shall be published in a newspaper of general circulation in Boyle County at least 7 and no more than 21 days before the public hearing in accordance with KRS 424.130. Any location map required for notice shall be furnished by the applicant. The notice shall be the responsibility of the Planning Commission.
- C. Mailed Notice.**
1. **Zoning Map Amendment and Historic Site or District Designation.** Notice of required public hearings shall be sent by mail to owners of real property that are adjacent to the land that is the subject of the application at least 14 days prior to a public hearing.
 2. **Map Amendments Originating with the Planning Commission or Member Legislative Bodies.** Per KRS 100.211(6), when an amendment originates with the Planning Commission or a member legislative body, notice of the public hearing shall be given at least 30 days in advance of the hearing to an owner of every parcel of property for which the classification is proposed to be changed.
 3. **Variance, Conditional Use, Administrative Appeals.** When required above, notice of required public hearings shall be sent by mail to owners of real property that are adjacent to the land that is the subject of the application at least 14 days prior to a public hearing.
 4. **Telecommunication Towers.** Notice of required public hearings shall be sent by mail to owners of real property contiguous to the property upon which the construction is proposed or owners of real property within 500 feet of the proposed tower. For additional mailing requirements by the applicants for a Telecommunications Tower, see Section 3.15 of this Ordinance.
 5. Owners of real property shall be identified by reference to the most recent tax records and shall be provided to the Planning Commission by the applicant. Records maintained by the Boyle County Property Valuation Administrator may be relied upon exclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group which administers property commonly owned by the condominium or cooperative owners.
 6. Mailing of required notice shall be the responsibility of the Planning Commission. Proof of mailing shall include:
 - a. A copy of the notice letter; and

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b. The Boyle County Property Valuation Administrators list of affected owners provided to the Planning Commission by the applicant.

7. Notice shall be deemed mailed by virtue of its deposit with the United States Postal Service, properly addressed with postage prepaid.

D. Content of Published or Mailed Notice. Published or mailed notices shall provide at least the following information:

1. A map of the general location of the land that is the subject of the application (mailed notice only);
2. A summary of the subject property's legal description or a street address per KRS 100.211(3);
3. The substance of the application;
4. The time, date and location of the public hearing; and
5. The Planning Commission's telephone number.

E. Posted Notice. When required above, notice of the public hearing shall be posted conspicuously on the subject property for 14 consecutive days immediately prior to the hearing. The posting of the notice shall be the responsibility of the Planning Commission. Posted notice shall contain:

1. The substance of the application;
2. The time, date and location of the public hearing; and
3. The Planning Commission's telephone number.

3.1.6 Public Hearing

A. The property owner and contract vendee must attend the public hearing or be represented by an attorney at the hearing.

B. Any exhibit intended for presentation before the Planning Commission or Board of Adjustments shall be provided to the Planning Commission in an 8.5" x 11" format.

3.1.7 Continuation of Public Hearings

A public hearing for which proper notice was given may be continued to a later date by majority vote of the Planning Commission or Board of Adjustments, without complying with the notice provisions above provided that the continuance is set for a date and time certain announced at the public hearing.

3.1.8 Withdrawal of Application

Any application may be withdrawn prior to final action by Planning Commission, Board of Adjustments or the Legislative Body. No fee shall be returned or credited for such a withdrawal.

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3.1.9 Time Limit for Reapplication

The Planning Commission shall not consider, unless initiated by the Planning Commission Staff, a parcel of land, or any portion thereof, for Official Zoning Map amendment, until 12 consecutive months shall have elapsed from any final action as defined in Sec. 3.1.12 below upon any application for such Official Zoning Map amendment. Re-applications initiated by the Planning Commission shall be based on a change of circumstance which were not known at the time of the original application.

3.1.10 Construction Initiation

The Planning Commission as a condition to the granting of any Official Zoning Map amendment shall require that substantial construction be initiated within 5 years of the date of any final action upon the Official Zoning Map amendment as defined in Sec. 3.1.12 below. If such construction is not initiated within the said 5-year period, the Planning Commission may initiate an application to revert the Official Zoning Map designation to its previous designation. Any action to revert the Official Zoning Map amendment to its previous zoning classification which originates as a result of the provisions of this section of the Ordinance shall be taken in the same manner as any other Official Zoning Map amendment. Failure of the Planning Commission to commence action to revert the Official Zoning Map classification immediately after 5 years shall not prevent the Commission from taking such action at a later date.

3.1.11 Time Limit for Rehearing before Board of Adjustments

The Board of Adjustments shall not consider, unless initiated by the Planning Commission Staff, a parcel of land or any portion thereof for any Variance, Conditional Use Permit or Appeal from any Administrative Official until 12 consecutive months shall have elapsed from any final action as defined in Sec. 3.1.12 below upon any application for such Variance, Conditional Use Permit or Appeal from any Administrative Official. Re-applications initiated by the Planning Commission shall be based on a change of circumstance which were not known at the time of the original application.

3.1.12 Final Action

For purposes of this Ordinance, "Final Action" shall be defined as any final adjudication of the application for any:

- A. Zoning Map Amendment or Zoning Text Amendment by the Legislative Body;
- B. Variance, Conditional Use Permit or Administrative Appeal by the Board of Adjustments;
- C. Telecommunication Tower Application by the Planning Commission;
- D. General or Site Development Plan or Amendment by the Planning Commission; or
- E. The appeal from the decision of the Board of Adjustments, Planning Commission or Legislative Body to the highest State or Federal court to which any appeals shall be taken.

SEC. 3.2 BUILDING PERMIT

It shall be unlawful to begin the construction of any structure or to begin the moving or alteration of any structure or begin or change the use of a premises until the Building Inspector has issued a Building Permit.

3.2.1 A complete application for a Building Permit shall be submitted to the Building Inspector, along with the appropriate review and inspection fee. Upon determination that the proposed development is in compliance with all requirements, including but not limited to this Ordinance and the adopted applicable Building Code, the Building Inspector shall issue a Building Permit. A Building Permit application shall include the following: Plot Plan - A dimensioned sketch or to scale exhibit which indicates the existing site information and features, the extent of improvements on the site, of all buildings, the existing and intended use of all structures, and such other information as may be required by the Building Inspector for determining whether the provisions of this Ordinance and the adopted Building Code are being observed. A Building Permit application may also include the following items if required by other Sections of this Ordinance: Landscape Plan (as applicable), including dimensions and distances, the location, size, and description of all landscape materials; existing and proposed buildings; parking areas, vehicle use areas and driveways; Drainage Plan; Paving Plan; and/or a Zoning Permit.

SEC. 3.3 ZONING PERMIT

It shall be unlawful within the incorporated limits of the City Danville to begin the construction of any Multi-Family, Institutional, Commercial or Industrial structure/ sign or to begin the moving or alteration of any Multi-Family, Institutional, Commercial or Industrial structure/ sign or change the use of a Multi-Family, Institutional, Commercial or Industrial premises until the Planning Commission has issued a Zoning Permit. Zoning Permits are required in the unincorporated areas of Boyle County for the construction of any non-residential structure/ sign or to begin the moving or alteration of any non-residential structure/ sign or change the use of a non-residential premises. Zoning Permits are not required within the incorporated limits of the City Junction City or the incorporated limits of the City of Perryville.

3.3.1 A complete application for a Zoning Permit shall be submitted to the Planning Commission, along with the appropriate review fee. Upon determination that the proposed development is in compliance with all requirements within this Ordinance, the Planning Commission shall issue a Zoning Permit. A Zoning Permit application shall include the following: Plot Plan - A dimensioned sketch or to scale exhibit which indicates the existing site information and features, the extent of improvements on the site, of all buildings, the existing and intended use of all structures, and such other information as may be required by the Planning Commission for determining whether the provisions of this Ordinance are being observed. A Zoning Permit application may also include the following items if required by other Sections of this Ordinance: Landscape Plan (as applicable), including dimensions and distances, the location, size, and description of all landscape materials; existing and proposed buildings; parking areas, vehicle use areas and driveways; Drainage Plan; Paving Plan; and a Building Permit.

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3.3.2 Within the incorporated limits of the City Danville, KY, any grading, excavation, filling, removal of soil, addition of gravel or aggregate or paving, on any lot or parcel of ground, to develop new or additional paved parking areas, display areas, travelways or other paved surfaces shall require a Zoning Permit first being obtained from the Planning Commission. This requirement does not apply to Single-Family uses or districts. A Zoning Permit application to develop new or additional paved parking, areas, display areas, travelways or other paved surfaces may also include the following items if required by other Sections of this Ordinance: Landscape Plan (as applicable), including dimensions and distances, the location, size, and description of all landscape materials; existing and proposed buildings; parking areas, vehicle use areas and driveways; and/ or a Drainage Plan (if required by the City of Danville KY).

SEC. 3.4 CERTIFICATE OF OCCUPANCY

3.4.1 Applicability

No land or structure or part thereof hereafter erected or altered in its use of structure, shall be used until the Building Inspector has issued a Certificate of Occupancy. The Certificate of Occupancy shall state that such land, structure, premises or use thereof are found to be in conformity with the provisions of this Ordinance and the adopted applicable Building Code.

3.4.2 Final Inspection

- A.** After notification that a structure, land or premises is ready for occupancy or use, it shall be the duty of the Building Inspector to make a final inspection thereof and to issue a Certificate of Occupancy, in duplicate, if the structure, premises or use thereof are found to conform with the provisions of this Ordinance and the adopted applicable Building Code.
- B.** If such certification is refused, the Building Inspector shall state the refusal in writing, with the cause, and immediately thereupon mail notice of such refusal to the applicant at the address indicated on the application. One copy of the completed Certificate of Occupancy will be issued to the applicant and one copy filed in the office of the Building Inspector.
- C.** Where applicable, the project engineer shall certify the drainage system functions as intended and has been constructed in accordance with any previously submitted plans.
- D.** Where applicable, the Planning Commission Staff shall review any site approved as part of a Zoning Map Amendment, General or Site Development Plan, Variance, Conditional Use Permit or Zoning Permit, as outlined in this Article to ensure compliance prior to the issuance of a Certificate of Occupancy.

SEC. 3.5 WRITTEN INTERPRETATION

3.5.1 Who May Apply

Any person, firm, corporation or governmental officer, board or bureau affected by this Ordinance may request a written interpretation of the Ordinance by the Planning Commission Director.

3.5.2 Action by Planning Commission Director

The Director shall consider the full text of this Ordinance, including any specific purpose statements and applicable definitions, along with other policy documents including, but not limited to, the Comprehensive Plan, in considering the appropriate interpretation of this Ordinance. The Director shall also consider any site-specific information provided by the applicant, where appropriate. The Director shall consult with the Planning Commission Attorney and other staff, as necessary, and render a Written Interpretation. The Director shall issue the Written Interpretation within 30 days of receiving the written request.

3.5.3 Publication of Interpretation

All Written Interpretations shall be maintained by the Planning Commission and provided to the public upon request.

3.5.4 Appeal of Written Interpretation

A Written Interpretation may be appealed in accordance with Sec. 3.6, Administrative Appeal.

SEC. 3.6 ADMINISTRATIVE APPEAL

3.6.1 Who May Apply

An Administrative Appeal may be taken by an applicant where there is an alleged error in any order, requirement, decision, grant, or refusal made by an Administrative Official in the enforcement of this Ordinance.

3.6.2 Timing of Appeal

Such appeal shall be made within 30 days of the aggrevance by filing a notice of appeal with the Board of Adjustments, specifying the grounds therefore and giving notice of such appeal to any and all parties of record.

3.6.3 Effect of Filing

Once a complete application for an administrative appeal has been received, no other development approvals or permits shall be issued for the subject property pending a decision on the appeal, unless the official whose decision is being appealed certifies that such a hold on permits and approvals would cause immediate peril to life or property.

3.6.4 Required Findings

The Board of Adjustments review on appeal shall be limited to a determination of whether or not the decision that is being appealed was (1) based upon substantial evidence and (2) arbitrary and capricious. The Board shall affirm the decision that is being appealed unless one or both of the factors set forth above exists. The Board shall not substitute its judgment for the judgment of the Administrative Official.

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3.6.5 Action on Appeal

- A. The Administrative Official shall transmit to the Board of Adjustments all papers constituting the record upon which the action appealed was taken and shall be treated as and be the respondent in such further proceedings.
- B. The Board of Adjustments shall fix a reasonable time for the hearing of an appeal.
- C. At any hearing by the Board, any interested person may appear and enter their appearance, and all shall be given an opportunity to be heard.
- D. Approval of an Administrative Appeal shall require a positive vote from a majority of those members present at a meeting with a properly constituted quorum. A pass vote which is cast on any matter before the Board of Adjustments shall have no force or effect and shall not count as a vote with the majority of votes cast.

SEC. 3.7 VARIANCES

3.7.1 Who May Apply

The owner of the property in question or an agent for the owner bearing a written power of attorney granting authority for this purpose may apply for a Variance.

3.7.2 Application Requirements

- A. All Variance applications shall be accompanied by an accurate boundary survey of the property in question. The survey shall be prepared by a surveyor licensed in the State of Kentucky and contain the following information:
 - 1. Owner(s) and applicant(s) names;
 - 2. Scale;
 - 3. Bearings and distances;
 - 4. Locating distance to nearest road centerline or right-of-way;
 - 5. House number of property or intersecting street on each side;
 - 6. North arrow;
 - 7. Right(s)-of-way of road and pavement width;
 - 8. Adjacent property, showing property lines;
 - 9. Names of adjacent property owner(s);
 - 10. Acreage of property;
 - 11. Vicinity map;
 - 12. Surveyor's stamp;
 - 13. Flood plain areas(s) and FEMA certification;
 - 14. Location of existing buildings and property boundary lines;
 - 15. Location of proposed buildings and property boundary lines;
 - 16. Lot coverage; and
 - 17. Proposed grade elevation.

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3.7.3 Permitted Variances

- A. The Board of Adjustments shall have the authority to hear and decide applications for Variance from the terms of this Ordinance, but only in the following situations and provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Ordinance.
 - 1. Where, by reasons of exceptional narrowness, shallowness or shape of a specific piece of property, which at the time of the adoption of the ordinance was a lot of record; or
 - 2. Where, by reason of exceptional topographic conditions or other extraordinary or exceptional situation or condition of a piece of property, the strict application of dimensional requirements would cause practical difficulties to or exceptional and undue hardship upon the owner of such property.
- B. Financial disadvantage to the property owner is no proof of hardship within the purpose of zoning.

3.7.4 Required Findings

Before any Variance is granted, the board must find that the Variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow for an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the Board shall consider whether:

- A. The requested Variance arises from special circumstances which do not generally apply to land in the general vicinity, or the same zone;
- B. The strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
- C. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

The Board shall deny any request for a Variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

3.7.5 Conditions

In granting a Variance, the Board may attach thereto such conditions regarding the location of the proposed building, structure or use as it may deem advisable in the furtherance of the purposes of this Ordinance.

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3.7.6 Action by Board

- A. Approval of a Variance shall require a positive vote from a majority of those members present at a meeting with a properly constituted quorum. A pass vote which is cast on any matter before the Board of Adjustments shall have no force or effect and shall not count as a vote with the majority of votes cast.
- B. In the event that the applicant files for a Variance concurrently with a Zoning Map Amendment request, the Planning Commission may hold the public hearing concurrently with the map amendment. Approval of a Variance shall require a positive vote from a majority of those members present at a meeting with a properly constituted quorum.

3.7.7 Prohibited Variances

- A. Variances shall not be issued within any designated floodway.
- B. Variances shall not be issued to allow the extension of a nonconforming use.
- C. Variances shall not be permitted to increase the density of a use above that permitted by the applicable district.
- D. Variances shall not be permitted to allow a use prohibited by this Ordinance.
- E. Variances shall not be permitted which arise from circumstances that are the result of willful violations of the zoning regulations.

SEC. 3.8 CONDITIONAL USE PERMIT

3.8.1 Who May Apply

The owner of the property in question or an agent for the owner, bearing a written power of attorney granting authority for this purpose, may apply for a Conditional Use Permit.

3.8.2 Application Requirements

- A. All Conditional Use Permits applications shall be accompanied by an accurate boundary survey of the property in question. The survey shall be prepared by a surveyor licensed in the State of Kentucky and contain the following information:
 - 1. Owner(s) and applicant(s) names;
 - 2. Scale;
 - 3. Bearings and distances;
 - 4. Locating distance to nearest road centerline or right-of-way;
 - 5. House number of property or intersecting street on each side;
 - 6. North arrow;
 - 7. Right(s)-of-way of road and pavement width;
 - 8. Adjacent property, showing property lines;
 - 9. Names of adjacent property owner(s);

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10. Acreage of property;
11. Vicinity map;
12. Surveyor's stamp;
13. Flood plain areas(s) and FEMA certification.
14. Location of existing buildings and property boundary lines;
15. Location of proposed buildings and property boundary lines;
16. Lot coverage; and
17. Proposed grade elevation.

3.8.3 Action by Board

- A. Approval of a Conditional Use Permit shall require a positive vote from a majority of those members present at a meeting with a properly constituted quorum. A pass vote which is cast on any matter before the Board of Adjustments shall have no force or effect and shall not count as a vote with the majority of votes cast.
- B. In the event that the applicant files for a Conditional Use Permit concurrently with a Zoning Map Amendment request, the Planning Commission may hold the public hearing concurrently with the map amendment. Approval of a Conditional Use Permit shall require a positive vote from a majority of those members present at a meeting with a properly constituted quorum.

3.8.4 Review Criteria

The Board of Adjustments shall approve an application for a Conditional Use Permit if, and only if, the applicant has demonstrated that the proposed use and any associated development:

- A. Granting the Conditional Use Permit does not substantially conflict with the Comprehensive Plan and the purposes of this Ordinance;
- B. Will be consistent with the "Intent" statement for the district in which it is located;
- C. Will be compatible with existing uses adjacent to and near the property;
- D. Will not be hazardous, detrimental or disturbing to present surrounding land uses due to noise, glare, smoke, dust, odor, fumes or other general nuisance;
- E. Will not otherwise adversely affect the development of the general neighborhood or of the district in which the use is proposed;
- F. Will be consistent with existing and planned pedestrian and vehicular circulation adjacent to and near the property;
- G. Will have adequate water and sewer supply, stormwater facilities, transportation facilities, waste disposal and other public services;
- H. Will be developed in a way that will preserve and incorporate any important natural features of the site; and

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- I. Will conform to any specific criteria or conditions specified for that use elsewhere in this Article.

3.8.5 Findings Required

The Board of Adjustments shall make the following findings prior to approval of any Conditional Use Permit.

- A. The use is not detrimental to the public health, safety or welfare in the zone in which it is proposed.
- B. The use will not contribute toward an overburdening of municipal services.
- C. The use will not result in increased traffic congestion, additional parking problems, substantial increase in population density, environmental problems or constitute a nuisance.
- D. That the use otherwise meets the requirements of this Ordinance.

3.8.6 Conditions of Approval

When considering a Conditional Use Permit, the Board of Adjustments may attach certain conditions to its approval which it feels are necessary requirements in order to preserve and protect the character of the district in which the proposed use would be located.

3.8.7 Periodic Review for Compliance

- A. The Director shall have the power to inspect the land or structure where the Conditional Use Permit is located in order to ascertain that the landowner is complying with all of the conditions listed on the Conditional Use Permit.
- B. If the landowner is not complying, the Director shall report the fact in writing to the Chairman of the Board of Adjustments. The report shall state specifically the manner in which the landowner is not complying, and a copy of the report shall be furnished to the landowner at the same time it is furnished to the Chairman of the Board of Adjustments.
- C. The Board shall hold a hearing on the report within a reasonable time and notice of the time and place of the hearing shall be furnished to the landowner at least one week prior to the hearing.
- D. If the Board of Adjustments finds that the facts alleged in the report are true and that the landowner has taken no steps to comply with them between the date of the report and the date of the hearing, the Board of Adjustments may authorize the Director to revoke the Conditional Use Permit and take the necessary legal action to cause the termination of the activity on the land which the Conditional Use Permit authorizes.

SEC. 3.9 TEXT AMENDMENT

3.9.1 Who May Apply

Applications for amendment of the ordinance text may be initiated by:

- A. The Danville-Boyle County Planning and Zoning Commission; or
- B. The Legislative Body having zoning authority over an affected property.

3.9.2 Planning Commission Action

The procedure for obtaining a text amendment shall be the same as defined in KRS Chapter 100. In their review of a text amendment, the Planning Commission shall consider and make findings as to whether the text amendment is in agreement with the adopted Comprehensive Plan. The Planning Commission shall make a recommendation to the Legislative Body on the requested amendment.

3.9.3 Legislative Body Action

The findings of fact that are recommended for approval or disapproval by the Planning Commission shall be forwarded to the affected Legislative Body for consideration. The Legislative Body shall take final action upon a proposed zoning text amendment.

SEC. 3.10 MAP AMENDMENT (REZONING)

3.10.1 Who May Apply

Applications for amendment of the Official Zoning Map may be initiated by:

- A. The Danville-Boyle County Planning and Zoning Commission, including flood plain designations initiated by the Planning Commission;
- B. The Legislative Body having zoning authority over an affected property;
- C. The owner of the property in question or an agent for the owner bearing a recorded written power of attorney granting authority for this purpose.

3.10.2 Pre-application Conference

- A. Prior to formal application for amendment of the Official Zoning Map, the applicant, and/or his attorney, shall hold a conference with the Planning Commission staff to discuss the effect of the Comprehensive Plan, this Ordinance, the Subdivision Regulations and other land development controls on the proposed development.
- B. The pre-application conference shall include discussions of apparent characteristics of the site that would affect the proposed development. In addition, the pre-application conference may be utilized for discussing whether a General Development Plan should be submitted with the application for amendment of the Official Zoning Map.

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- C.** The applicant shall furnish the following materials to facilitate discussion during the pre-application conference:
1. Location map showing affected area with project delineated;
 2. Project description (proposed use, density or intensity, general layout, etc.);
 3. Project development program (including proposed number of units for residential projects or square feet of building space for non-residential projects); and

3.10.3 Application Requirements

Application for amendment of the Official Zoning Map shall be filed with the Planning Commission in accordance with this section and shall contain the following:

- A. Demonstration of Appropriateness.** Any application for amendment to the Official Zoning Map shall be submitted with a written detailed explanation as to the following:
1. How the proposed map amendment would conform to the Comprehensive Plan;
 2. Why the original zoning classification of the property in question was inappropriate or improper;
 3. What major economic, physical or social changes, if any, have occurred in the vicinity of the property in question that were not anticipated by the Comprehensive Plan and which have substantially altered the basic character of the area, which make the proposed amendment to the Official Zoning Map appropriate. The explanation for this section shall include:
 - a. A list of such specific changes;
 - b. A description as to how said changes were not anticipated by the Comprehensive Plan;
 - c. A description as to how said changes will alter the basic character of the area; and
 - d. A description as to how said changes make the proposed amendment to the Official Zoning Map appropriate.
- B. Property Owners Signature.** All applications for amendment to the Official Zoning Map submitted by an owner or agent shall:
1. Be signed by all persons necessary to convey in fee simple absolute the property in question or the attorney for all such persons;
 2. Identify all lessees, option-holders and developers of the subject property; and
- C. Zoning Plat/ Boundary Survey.** An accurate boundary survey of the property in question shall be filed with the application and shall contain the following information:

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1. Owner(s) and applicant(s) names;
2. From: (present zoning) to: (proposed zoning);
3. Scale;
4. Bearings and distances;
5. Locating distance to nearest road centerline or right-of-way;
6. House number of property or distance to intersecting street on each side;
7. North arrow;
8. Right(s)-of-way of road and pavement width;
9. Adjacent property, showing property lines and zoning;
10. Names of adjacent property owner(s);
11. Acreage of property to be rezoned;
12. Vicinity map;
13. Surveyor's stamp;
14. Flood plain areas(s) and FEMA certification; and
15. Corporate limits (if adjacent).

D. Legal Notice Drawing. A drawing is to be included with the zone change application in addition to the zone change survey for the purpose of legal notification.

1. Drawing must fit on 8 ½ X 11 sheet of paper.
2. A copy of the Zoning Plat/ Boundary Survey (Item C above).

E. Development Plan. As a condition to the granting of any amendment to the Official Zoning Map, the Planning Commission is authorized to require the submission of a Development Plan. The Development Plan shall be filed in accordance with the provisions and requirements of Sec. 3.11, Development Plans. Where agreed upon, this Development Plan shall be followed and shall be binding on all parties. A Development Plan may be either a General Development Plan or a Site Development Plan or both as specified by Section 3.11.

F. Traffic Impact Study. Any development requiring the submission of a Traffic Impact Study shall illustrate the effect of the proposed project on the surrounding roadways and intersections. Such effect shall be measured against the existing level of service standard and circulation patterns for the roadways affected by the proposed development's impact. Any project which proposes:

1. Greater than 50,000 square feet of non-residential space;
2. Greater than 50 residential units; or,
3. Any other use generating 500 or more average daily trips, shall be required to submit a Traffic Impact Study.

Exceptions to this requirement may be approved after consultation between the applicant, the Planning Commission and affected agencies (City or County Engineer and/or KYTC). The applicant must provide documentation, in writing, from all affected agencies, exempting their particular development from the TIS requirement.

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- G. Other Concurrent Applications.** Applications for Variances, and/ or Conditional Use Permits may be filed concurrently with the application for Official Zoning Map Amendment on the same property to be considered by the Planning Commission for a map amendment.

3.10.4 Responsibility for Accuracy

The applicant shall be responsible for the accuracy of the information filed and shall demonstrate that the identity of all adjoining property owners is made known to the Planning Commission as part of the Official Zoning Map Amendment application. The applicant may rely on the records of the property valuation administrator for this purpose.

3.10.5 Planning Commission Action

The procedure for obtaining a Zoning Map Amendment shall be the same as defined in KRS Chapter 100 and in addition, as follows:

- A.** The Planning Commission requires, as a condition to the granting of a Zoning Map Amendment, the submission of a General Development Plan. Where agreed upon by the applicant, the General Development Plan shall be followed and binding upon the applicant, his heirs, successors, and assigns.
- B.** If the Planning Commission considers a General Development Plan concurrently with an application for Zoning Map Amendment pursuant to KRS 100.203(2), the Commission shall vote upon the application for Zoning Map Amendment at the same time as it considers the applicant's request that the General Development Plan be a condition to the granting of the Zoning Map Amendment. The recommendation of the Planning Commission to approve a Zoning Map Amendment shall be conditioned upon compliance with the submitted General Development Plan and enforced accordingly.
- C.** The Planning Commission and applicant may agree to amend the General Development Plan during the public hearing. In such case, the revised General Development Plan shall be prepared by the applicant within 14 calendar days of the approval of the Planning Commission. If the revised General Development Plan, has not been submitted to the Planning Commission within 14 days, the Commission may hold a public hearing to rescind the approval on the next available agenda.
- D.** No Development Plan approved by the Planning Commission shall permit the development or use of land in a manner prohibited by this Ordinance. To the extent a condition of a Development Plan may purport to grant such permission, it shall be deemed in conflict with the zoning district regulations and be void and of no effect.

3.10.6 Review Criteria, Findings Required

In their review of a map amendment, the Planning Commission shall consider and make findings on the following matters:

- A.** The map amendment is in agreement with the adopted Comprehensive Plan, or, in the absence of such a finding,

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- B.** That one or more of the following apply and such finding shall be recorded in the minutes and records of the Planning Commission of the legislative body or Fiscal Court:
1. The original zoning classification given to the property is inappropriate and that the proposed zoning classification is appropriate;
 2. There have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted Comprehensive Plan and which have substantially altered the basic character of such area.

3.10.7 Legislative Body Action

The Planning Commission's recommendation for approval or disapproval of the amendment and the findings of fact which support the recommendation shall be forwarded to the affected Legislative Body for consideration. The Legislative Body shall take final action upon a proposed Zoning Map Amendment within 90 days of the date of the Planning Commission's recommendation. Failure of the Legislative Body to act within 90 days shall deem the recommendation of the Planning Commission to have passed by operation of law.

3.10.8 Condition of Enactment of Map Amendment.

The following condition shall apply to the enactment of any Zoning Map Amendment; Building permits for improvement of the subject property shall be issued only in conformance with the elements of the General Development Plan and, where required, a Site Development Plan.

3.10.9 Action on Concurrent Applications

- A.** In the event the applicant files for a Variance or Conditional Use Permit concurrently, the Planning Commission shall hold the public hearing concurrently with the map amendment.
- B.** For the purpose of carrying out this subsection, each requested Variance or Conditional Use Permit shall be considered as separate applications and shall otherwise be administered, advertised and handled in accordance with the requirements of this Ordinance and KRS 100 except that notice by mail for the Zoning Map Amendment shall include notice for the Variance or Conditional Use Permit and shall state that these items will be concurrently heard by the Planning Commission.
- C.** The Planning Commission shall assume all the powers and duties otherwise executed by the Board of Adjustments in considering a Variance or Conditional Use Permit, but shall only have this authority when the subject Variance or Conditional Use Permit is being considered concurrently with property being considered for a map amendment.

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3.10.10 Parties Bound by Development Plan Conditions

The Development Plan, General or Site, enacted under the provisions of this Section, including any amendment thereto, shall be binding upon the property and the owner at the time of approval by the Planning Commission, his heirs, successors in title, personal representatives, assigns, the Planning Commission and legislative bodies.

3.10.11 Recording of Development Plan Conditions

Following the approval of a map amendment and General Development Plan, or any amendment thereto, a statement shall be filed in the office of the Boyle County Clerk. The statement shall contain the name of the owner at the time of approval by the Planning Commission, a description of the property in question, source of title, and enumeration of the conditions as adopted by the Planning Commission and date of adoption and same shall be signed by them owner.

SEC. 3.11 DEVELOPMENT PLANS, GENERAL OR SITE

3.11.1 Purpose and Intent of Development Plan Review

- A. The Development Plan is a review procedure whereby the Planning Commission may determine the character and objectives of the proposed development in order to ascertain the following:
 - 1. Impact the development will have on capacity of community facilities and services.
 - 2. Impact the development will have on the character of the neighborhood.
 - 3. Impact the development will have on the neighborhood and community.
- B. The General Development Plan is intended to demonstrate to the Planning Commission the character and objectives of the proposed development in adequate detail for the Planning Commission to evaluate the proposed development and to determine what shall be binding on the use and development of the property in question.
- C. A Site Development Plan is intended to contain specific plans for developing the property in question including implementation of the conditions of an approved General Development Plan.
- D. A Development Plan is intended as a review of the proposed project site as a whole, especially where multiple zoning districts are proposed.
- E. All references herein to the filing and approval of an initial Development Plan shall include all amendments thereto.

3.11.2 General Development Plan Required

- A. A General Development Plan shall be filed with the application for an amendment to the Official Zoning Map in a form recordable in the Boyle County Courthouse.

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- B. Where large parcels of land are proposed for various zoning districts or for differing standards, each parcel may have separate General Development Plan for separate tract.

3.11.3 Elements of a General Development Plan

“Development plan” means written and/ or graphic material for the provision of a development, including any or all of the following:

- A. location and bulk of buildings and other structures,
- B. intensity of use,
- C. density of development,
- D. streets, ways, access points, and parking facilities,
- E. signs,
- F. drainage of surface water,
- G. a plan for screening or buffering,
- H. utilities,
- I. existing manmade and natural conditions, and
- J. all other conditions agreed to by the applicant.

3.11.4 Site Development Plan Required

Prior to the issuance of Building Permits and Zoning Permits, a Site Development Plan shall be approved by the Planning Commission for the following:

- A. All commercial developments or uses containing over 10,000 sq. ft. in total building area;
- B. Townhomes, multifamily housing, or group living uses with sixteen (16) or greater units;
- C. All institutional developments or uses containing over 50,000 sq. ft. in total building area; or
- D. All industrial developments or uses containing over 50,000 sq. ft. in total building area.

3.11.5 Elements of Site Development Plan

When a Site Development Plan is required by this Section, the plan shall contain the following information:

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- A. Name of development, name and addresses of owners, developers, engineers, surveyors, landscape architects, and architects; vicinity map with accurate measurements to existing streets, date, scale, source of title and north arrow.
- B. Names of adjacent subdivisions and/or names of recorded owners of adjacent land.
- C. Names, location, arrangement and dimensions of all existing platted streets, driveways or other public ways within or adjacent to the property and existing utility easements.
- D. Names, location, arrangement and dimensions of proposed streets and driveways or other public ways, including width of rights-of-way, parking areas and number of parking spaces (including total area of off-street parking), points of ingress and egress and sight distances of all entrances to existing streets.
- E. Building setback lines or building envelopes whichever is appropriate.
- F. Preliminary size and location of all proposed underground utilities lines (water, sewer and gas, if applicable).
- G. A topographic survey of the site. Upon review of the survey, a drainage plan may be required.
- H. Copy of proposed property owners' association covenant or master deed or restrictions if applicable.
- I. Lot size and location.
- J. Height, floor area and arrangement of proposed buildings or structures and number of dwelling units.
- K. Location of all existing buildings, structures and parking.
- L. Boundary survey including area and bearings and dimensions of all exterior property lines.
- M. When mixed uses are proposed, show location of these uses by general type, i.e., commercial, industrial, office and residential.
- N. Existing tree masses, significant rock outcroppings, streams, flood plains and other natural features.
- O. Provisions for landscaping, if applicable.
- P. Recreational and open space area, if applicable.
- Q. Proposed stages of development if applicable and the anticipated time required to develop each stage.

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- R. Traffic Impact Study (if required) prepared and stamped by a professional engineer qualified in transportation engineering.
- S. All Site Development Plans shall be drawn to a sufficient scale to clearly delineate the applicant's proposed use and development of the subject property. Such scale shall be indicated on the Site Development Plan.

3.11.6 Action on Development Plan

- A. General Development Plan. The Planning Commission shall consider the General Development Plan as part of a Zoning Map Amendment request and shall take action on the map amendment as outlined in 3.10. Applications for Variances and/or Conditional Use Permits may be filed concurrently with the application for a General Development Plan on the same property to be considered by the Planning Commission for a Zoning Map Amendment.
- B. The Planning Commission shall review the Site Development Plan and shall take one of the following actions:
 - 1. Approve the Site Development Plan, or,
 - 2. Disapprove the Site Development Plan.
 - a. When the Planning Commission's action is disapproval, the Planning Commission shall state the reasons for the action and shall transmit these reasons to the applicant within 10 days after its action.
 - b. Within 30 days of the transmittal, the applicant may make a written response concurring with the required modifications. Upon receipt of the applicant's concurrence, the Site Development Plan shall be deemed to have approval of the Planning Commission.
 - c. If the applicant fails to concur with the required conditions or does not reply within 30 days of the date of the transmittal, then the Site Development Plan shall be deemed disapproved by final action.
 - 3. The Planning Commission shall approve the Site Development Plan when it makes a determination that the Site Development Plan conforms to the General Development Plan and other requirements of this Article.

3.11.7 Amendments to Enacted General Development Plan

Amendments to an approved General Development Plan shall require the approval of the Planning Commission. Requests for amendment of any such plan shall be submitted to the Planning Commission and shall contain the signature of all property owners necessary to convey fee simple title to the land within the tract or phase that is subject to the General Development Plan, and

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the Commission shall act thereon at the next available agenda. Amendments shall be processed in the same manner as the original General Development Plan. Any such amendment shall be considered no earlier than one year, unless initiated by the Planning Commission Staff, after final action of the General Development Plan, except upon appeal or court order. Re-applications initiated by the Planning Commission shall be based on a change of circumstance which were not known at the time of the original application. A public hearing on the proposed amendment to the plan shall be held by the Planning Commission in the same manner as the original General Development Plan. An amendment to any approved General Development Plan shall be approved only if the proposed amendment remains consistent with the adopted Comprehensive Plan and upon a finding that:

- A. There have been major changes of an economic, physical or social nature within the area of the property in question which were not anticipated at the time of the adoption of the development plan which is being amended; or,
- B. There have developed physical conditions which would not permit development of property in question in accordance with the General Development Plan which is being amended.
- C. Any application to amend the General Development Plan shall require the signature of 100 percent of the property owners within the area covered by the General Development Plan and shall be amended by the same process as the original zoning amendment.

3.11.8 Amendment to the Adopted Site Development Plan. The applicant or owners may apply to the Planning Commission for amendment to the Site Development Plan. The application for an amendment must contain the signature of the property owners for at least 51 percent of the property within the original Site Development Plan. Any such amendment shall be considered no earlier than one year after final action on the Site Development plan. The Planning Commission may initiate an amendment to the Site Development Plan under this Section. Re-applications initiated by the Planning Commission shall be based on a change of circumstance which were not known at the time of the original application. The Planning Commission shall hold at least one public hearing as prescribed by this Ordinance and shall act on the application for amendment to the Site Development Plan in the same manner as originally approved.

3.11.9 Minor Amendments and Changes to a Site Development Plan. The items and conditions of the Site Development Plan may be changed from time to time as follows:

The Director may approve minor modifications of the adopted Site Development Plan so long as the modification shall not violate any standard or regulation set forth in the approved General Development Plan. The total of such modifications approved by the Director shall never exceed 5 percent of the gross leasable floor area (non-residential), 5 percent of parking or vehicle use areas or 5 percent of total residential units as shown by the adopted Site Development Plan. The Director shall not approve modifications of permitted uses.

SEC. 3.12 LOCAL HISTORIC DESIGNATION

3.12.1 Who May Apply

Consideration of the designation of a Local Historic Site or a Local Historic District may originate from the Legislative Body, the Danville Architectural Heritage Board or the landowner of the property in question. A person or an organization proposing a Local Historic site designation shall file a Zoning Map Amendment application with Planning Commission pursuant to Section 3.10 of this Ordinance. The Danville Architectural Heritage Board shall recommend to the Planning Commission the designation of Local Historic sites and Local Historic Districts. After a public hearing and a recommendation by the Planning Commission, the Legislative Body shall make these designations by the enactment of an ordinance.

3.12.2 Planning Commission Public Hearing and Notice Required

The Danville Architectural Heritage Board shall assemble information about a property or district being considered for designation and shall then hold at least one fact finding meeting to draft a recommendation to the Planning Commission. When a hearing before the Planning Commission is scheduled on a proposal designating individual Local Historic Sites and Local Historic District, the following notice shall be given by the Planning Commission in addition to any other notice required by statute, by local regulation or ordinance:

- A. Notice of the Planning Commission hearing shall be posted conspicuously on the property for which the designation is proposed for 14 consecutive days immediately prior to the hearing.
- B. The Planning Commission public hearing sign shall be constructed of durable material, shall be written in letters sufficiently large enough to be read from the public street, shall state the telephone number of the Planning Commission, and shall state the time, place and date of Planning Commission hearing.
- C. Notice of the Planning Commission hearing shall be given at least 14 days in advance of the hearing by first-class mail, to the owner of every parcel of property adjoining the property for which the designation is proposed. It shall be the duty of the person or persons proposing the designation to furnish to the Planning Commission the names and addresses of the owners of all affected and adjoining property. Records maintained by the Boyle County Property Valuation Administrator may be relied upon to determine the identity and address of said owner.

3.12.3 Historic Overlay Standards

- A. The Historic Overlay Standards shall include the Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties, as well as the Secretary of the Interior's Guidelines on Sustainability for Rehabilitating Historic Buildings and may include other local standards that will apply to all designated property in the affected jurisdiction.

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- B.** The Historic Overlay Standards shall not limit new construction to any one architectural style but shall seek to preserve the character and integrity of the Local Historic Site and Local Historic Districts.
- C.** The Historic Overlay Standards shall suggest changes that would be appropriate for local historic sites and local historic districts.
- D.** The Danville Architectural Heritage Board may expand or amend the Historic Overlay Standards it has adopted provided it submits the proposed changes to the Planning Commission and affected Legislative Body for its approval.

3.12.3 Designation Criteria

A Local Historic Site and/or Local Historic Districts shall qualify for designation when it meets one or more of the following criteria which shall be discussed in a Danville Architectural Heritage Board report making its recommendations to the Planning Commission and the Legislative Body:

- A.** Its location as a site of significant cultural or archeological heritage of the locality, state or nation;
- B.** Its location as a site of a significant local, state or national event;
- C.** Its identification with a person or persons who significantly contributed to the development of the locality, state or nation;
- D.** Its value as a building that is recognized for the quality of its architecture and that retains sufficient elements showing its architectural significance;
- E.** Its character as a geographically definable area possessing a significant concentration of sites, buildings or structures united by past events or aesthetically by plan or physical development; or
- F.** Its character as an established and geographically definable neighborhood, united by culture, architectural style or physical plan and development.

3.12.4 Conduct of Public Hearing

Upon receipt of the written recommendation report, the Planning Commission shall then hold a public hearing in accordance with the requirement of a Zoning Map Amendment as contained in KRS Chapter 100.207 and 100.212.

3.12.5 Legislative Body Action

- A. The Planning Commission's recommendation for approval or disapproval of the amendment and the findings of fact which support the recommendation shall be forwarded to the affected Legislative Body for consideration. The Legislative Body shall take final action upon a proposed Zoning Map Amendment within 90 days of the date of the Planning Commission's recommendation. Failure of the Legislative Body to act within 90 days shall deem the recommendation of the Planning Commission to have passed by operation of law.
- B. The Local Historic Site, or Local Historic Districts shall be shown on the Official Zoning Map by the use of the letters "HD"; this identification and designation shall be in addition to the other categories shown on the Official Zoning Map.
- C. The Planning Commission shall arrange that the designation of a property as a Local Historic Site or as a part of a Local Historic District be recorded in the records of Boyle County Clerk's office. The Planning Commission shall also give notice of the decision to the government offices in the City which shall retain it for future reference.

SEC. 3.13 CERTIFICATE OF APPROPRIATENESS

3.13.1 When Required

A Certificate of Appropriateness from the Danville Architectural Heritage Board shall be required before a person may undertake the following actions affecting a Local Historic Site, and/or Local Historic Districts:

- A. Alteration of the exterior part of the building or structure
- B. New construction or new additions;
- C. Signs, fences or new parking areas;
- D. Demolition; or
- E. Relocation.

SEC. 3.14 SPECIAL PROCEDURES IN FLOOD PLAIN DISTRICT

3.14.1 Amending the Flood Plain District

A. Evidence Required.

- 1. No Official Zoning Map amendment may be granted which removes the floodplain designation unless it can be established by evidence:
 - a. That the designation is in error; or
 - b. That the area can be filled to or above the elevation of the regulatory Flood Protection Elevation without causing on-site or off-site property damage or otherwise adversely affecting other properties within any watershed and shall not result in any increase in

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flood levels during occurrence of the base flood discharge; and

c. That the area in question is contiguous to lands outside the Flood Plain District and that access to such areas in question is provided over lands outside the Flood Plain District.

2. Items 1(a) or 1(b) above shall be supported by technical data certified by a Kentucky registered professional engineer that has proven each of the required stipulations.

B. Amendment Process. Any amendment shall be processed in the same manner as all other Zoning Map Amendments.

C. FEMA Approval Required. No Official Zoning Map amendment which removes the flood plain designation under this section shall become effective until approved by FEMA or Authorized State Agency.

SEC. 3.15 REGULATION PROCEDURES OF CELLULAR ANTENNA TOWERS

3.15.1 Applications for Siting of Cellular Antenna Towers

The owner of the property in question or an agent for the owner bearing a recorded written power of attorney granting authority for this purpose.

3.15.2 Pre-application Conference

A. Prior to formal application for the Siting of Cellular Antenna Towers, the applicant, and/or his attorney, shall hold a conference with the Planning Commission staff to discuss the effect of the Comprehensive Plan, this Ordinance, the Subdivision Regulations and other land development controls on the proposed development.

B. The pre-application conference shall include discussions of apparent characteristics of the site that would affect the proposed development. In addition, the pre-application conference may be utilized for discussing whether a General Development Plan should be submitted with the application for the Siting of Cellular Antenna Towers and/or amendment of the Official Zoning Map.

C. The applicant shall furnish the following materials to facilitate discussion during the pre-application conference:

1. Location map showing affected area with project delineated;
2. Project description (use, density or intensity, general layout, fencing, etc.);

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3.15.3 Application for the Siting of Cellular Antenna Towers - Contents of Uniform Application shall include:

- A. The full name and address of the applicant and property owner;
- B. The applicant's articles of incorporation, if applicable;
- C. A geotechnical investigation report, signed and sealed by professional engineer registered in Kentucky, that includes boring logs and foundation design recommendations;
- D. A written report, prepared by a professional engineer or land surveyor, of findings as to the proximity of the proposed site to flood hazard areas;
- E. Clear directions from the county seat to the proposed site, including highway numbers and street names, if applicable, with the telephone number of the person who prepared the directions;
- F. The lease or sale agreement for the property on which the tower is proposed to be located, except that, if the agreement has been filed in abbreviated form with the county clerk, an applicant may file a copy of the agreement as recorded by the county clerk and, if applicable, the portion of the agreement demonstrating compliance with KRS 100.987(2);
- G. The identity and qualifications of each person directly responsible for the design and construction of the proposed tower;
- H. A site survey, signed and sealed by a professional engineer registered in Kentucky, that shows the proposed location of the tower and all easements and existing structures within five hundred (500) feet of the proposed site on the property on which the tower will be located, and all easements and existing structures within two hundred (200) feet of the access drive, including the intersection with the public street system;
- I. A vertical profile sketch of the tower, signed and sealed by a professional engineer registered in Kentucky, indicating the height of the tower and the placement of all antennas;
- J. The tower and foundation design plans and a description of the standard according to which the tower was designed, signed, and sealed by a professional engineer registered in Kentucky;
- K. A map, drawn to a scale no less than one (1) inch equals two hundred (200) feet, that identifies every structure and every owner of real estate within five hundred (500) feet of the proposed tower;
- L. A statement that every person who, according to the records of the Boyle County Property Valuation Administrator, owns property within five hundred (500) feet of the proposed tower or property contiguous

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to the site upon which the tower is proposed to be constructed, has been:

1. Notified by certified mail, return receipt requested, of the proposed construction, which notice shall include a map of the location of the proposed construction;
 2. Given the telephone number and address of the local planning commission; and
 3. Informed of his or her right to participate in the planning commission's proceedings on the application;
- M.** A list of the property owners who received the notice, together with copies of the certified letters sent to the listed property owners;
- N.** A statement that the affected Local Governments and their Legislative Bodies have been notified, in writing, of the proposed construction;
- O.** A copy of the notice sent to the affected Local governments and their Legislative Bodies;
- P.** A brief description of the character of the general area in which the tower is proposed to be constructed, which includes the existing land use for the specific property involved;
- Q.** A statement that the applicant has considered the likely effects of the installation on nearby land uses and values and has concluded that there is no more suitable location reasonably available from which adequate service to the area can be provided, and that there is no reasonably available opportunity to locate its antennas and related facilities on an existing structure, including documentation of attempts to locate its antennas and related facilities on an existing structure, if any, with supporting radio frequency analysis, where applicable, and a statement indicating that the applicant attempted to locate its antennas and related facilities on a tower designed to host multiple wireless service providers' facilities or on an existing structure, such as a telecommunications tower or other suitable structure capable of supporting the applicant's antennas and related facilities; and
- R.** A map of the area in which the tower is proposed to be located, that is drawn to scale, and that clearly depicts the necessary search area within which an antenna tower should, pursuant to radio frequency requirements, be located.

3.15.4 Demonstration of Appropriateness and Other Concurrent Applications Requirements

- A.** Applications for Official Zoning Map amendments, Variances, Conditional Uses Permits may be filed concurrently with the application for on the same property to be considered by the Planning Commission for the Siting of Cellular Antenna Towers. Any application for the Siting

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of Cellular Antenna Towers shall be submitted with a written detailed explanation as to the following:

1. How the proposed tower siting and map amendment would conform to the Comprehensive Plan;
 2. Why the original zoning classification of the property in question was inappropriate or improper;
 3. What major economic, physical or social changes, if any, have occurred in the vicinity of the property in question that were not anticipated by the Comprehensive Plan and which have substantially altered the basic character of the area, which make the proposed amendment to the Official Zoning Map appropriate.
- B.** As a condition to the granting of any amendment to the Official Zoning Map, the Planning Commission is authorized to require the submission of a Development Plan. The Development Plan shall be filed in accordance with the provisions and requirements of Sec. 3.11, Development Plans. Where agreed upon, this Development Plan shall be followed and shall be binding on all parties. A Development Plan may be either a General Development Plan or a Site Development Plan or both as specified by Sec. 3.11.
- C.** The applicant shall be responsible for the accuracy of the information filed and shall demonstrate that the identity of all adjoining property owners is made known to the Planning Commission as part of the Official Zoning Map amendment application. The applicant may rely on the records of the property valuation administrator for this purpose.

3.15.5 Planning Commission Action

The procedure for Siting of Cellular Antenna Towers and/or obtaining a Zoning Map Amendment shall be as follows:

- A.** After an applicant's submission of the uniform application to construct a cellular antenna tower, the Planning Commission shall:
1. In a public hearing, review the uniform application in light of its agreement with the comprehensive plan and adopted zoning regulations;
 2. Make its final decision to approve or disapprove the uniform application; and
 3. Advise the applicant in writing of its final decision within sixty (60) days commencing from the date that the uniform application is submitted to the Planning Commission or within a date certain specified in a written agreement between the Planning Commission and the applicant. If the Planning Commission fails to issue a final decision within sixty (60) days and if there is no written agreement between the Planning

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Commission and the applicant to a specific date for the Planning Commission to issue a decision, the uniform application shall be deemed approved.

- B.** If the Planning Commission disapproves of the proposed construction, it shall state the reasons for disapproval in its written decision and may make suggestions which, in its opinion, better accomplish the objectives of the Comprehensive Plan and the adopted zoning regulations. No permit for construction of a cellular or personal communications services antenna tower shall be issued until the Planning Commission approves the uniform application or the sixty (60) day time period has expired, whichever occurs first. For tower siting cases involving Zoning Map Amendments, Variances, and/ or Conditional Use Permits filed concurrently with the application, no permit shall be issued until the Planning Commission and the appropriate Legislative Body has taken final action.
- C.** The Planning Commission may require the applicant to make a reasonable attempt to co-locate additional transmitting or related equipment. A Planning Commission may provide the location of existing cellular antenna towers on which the commission deems the applicant can successfully co-locate its transmitting and related equipment. If the Planning Commission requires the applicant to attempt co-location, the applicant shall provide the local planning unit with a statement indicating that the applicant has:
1. Successfully attempted to co-locate on towers designed to host multiple wireless service providers' facilities or existing structures such as a telecommunications tower or another suitable structure capable of supporting the applicant's facilities, and that identifies the location of the tower or suitable structure on which the applicant will co-locate its transmission and related facilities; or
 2. Unsuccessfully attempted to co-locate on towers designed to host multiple wireless service provider's facilities or existing structures such as a telecommunications tower or another suitable structure capable of supporting the applicant's facilities and that:
 - (a) Identifies the location of the towers or other structures on which the applicant attempted to co-locate; and
 - (b) Lists the reasons and document why the co-location was unsuccessful in each instance.
- D.** The Planning Commission may deny a uniform application to construct a cellular antenna tower based on an applicant's unwillingness to attempt to co-locate additional transmitting or related equipment on any new or existing towers or other structures.

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- E.** In the event of co-location, a utility shall be considered the primary user of the tower, if the utility is the owner of the antenna tower and if no other agreement exists that prescribes an alternate arrangement between the parties for use of the tower. Any other entity that co-locates transmission or related facilities on a cellular antenna tower shall do so in a manner that does not impose additional costs or operating restrictions on the primary user.
- F.** Upon the approval of an application for the construction of a cellular antenna tower by the Planning Commission, the applicant shall notify the Public Service Commission within ten (10) working days of the approval. The notice to the Public Service Commission shall include a map showing the location of the construction site. If an applicant fails to file notice of an approved uniform application with the Public Service Commission, the applicant shall be prohibited from beginning construction on the cellular antenna tower until such notice has been made.
- G.** A party aggrieved by a final action of the Planning Commission under the provisions of KRS 100.985 to 100.987 may bring an action for review in any court of competent jurisdiction.

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