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- required from the applicant for all other continuances either requested by the applicant or caused by the actions or inactions of the applicant.
4. If at any time, the contents of any form of notice, required or otherwise, is determined to be incorrect, the application shall be determined to be out of order and shall be required to continue to the next available hearing, after the prior scheduled meeting, and renote shall be required in order to make the appropriate corrections. Additionally, failure to meet any notice deadlines required in this code shall cause the application to be determined to be out of order and the application shall be required to continue to the next available hearing, after the prior scheduled meeting, and renote shall be required.
  5. Notice of continuances for applications determined to be out of order due to the actions or inactions of the applicant, as described in Subsection D.4 above, shall be required in the following manner:
    - a. The applicant shall mail notice of the new hearing date to which the application has been continued, as determined by the Administrator, no less than thirty (30) days prior to the new hearing date. The applicant shall submit proof of mailing to the Administrator no more than seven (7) calendar days after the notice deadline.
    - b. The Administrator shall cause the posting of a sign(s) within ten (10) days following the hearing from which the application is being continued.
  6. Notice of continuances requested by the applicant prior to the deadline, as described in Subsection C.3 above, shall be required in the following manner:
    - a. The applicant shall mail notice of the requested continuance and new hearing date to which the application is being continued no less than seven (7) days prior to the hearing date from which the application is being continued. The applicant shall submit proof of mailing to the Administrator no more than seven (7) calendar days after the notice deadline.
    - b. The Administrator shall cause the posting of a sign(s) no less than three (3) calendar days prior to the currently scheduled hearing that is being continued.
  7. For other continuances requested by the applicant and for continuances caused by any actions or inactions of the applicant, except for applications determined to be out of order, notice shall be required in the following manner:
    - a. The applicant shall mail notice of the new hearing date following approval of the continuance. The notice shall be mailed no less than thirty (30) days prior to the hearing date to which the application has been continued. The applicant shall submit proof of mailing to the Administrator no more than seven (7) calendar days after the notice deadline.
    - b. The Administrator shall cause the posting of a sign(s) following the approval of the continuance within ten (10) days of the decision to reschedule the hearing.
  8. For continuances not caused by any actions or inactions of the applicant, notice shall be required in the following manner:
    - a. The Administrator shall cause the posting of a sign(s) following the approval of the continuance within ten (10) days of the decision to reschedule the hearing.
  9. Proof of Mailing: The applicant shall provide ~~Planning and Growth Management~~ [Development Services Department](#) Staff with the documentation listed below as proof of mailing in fulfillment of the notice requirements. Failure to submit proof of mailing in a timely manner shall result in the application being continued to the next available hearing, unless said continuance will cause the hearing to continue beyond the maximum time frame prescribed in Subsection C.2.4 above, in which case the application shall be withdrawn from processing by the Administrator.
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- a. A completed copy of the official notice letter.-
  - b. An original "certificate of mailing" from the U.S. Post Office listing the names, mailing addresses and property folio numbers of all noticed parties-
  - c. A signed and notarized affidavit from the applicant acknowledging completion of the notice requirements-

E. Property Owners' Notice

1. Notice shall be mailed to all owners of property, as reflected on the current year's tax roll, and, where common property lies within the required notice distance, to all condominium and owners' associations, lying within 500 feet in every direction when the subject parcel is within the Agricultural and Residential-1 Categories of the Comprehensive Plan, and 300 feet in every direction when the parcel is within any of the remaining Plan categories. If a subject parcel contains more than one land use designation, the greatest applicable notice distance shall apply.
2. If the notification requirements of Paragraph 1 immediately above result in the requirement to notify more than 200 property owners, the applicant may seek administrative relief through the Administrator for consideration of reducing the number of parties which must be notified while still providing sufficient notice.
3. A reduction in the number of notices may occur in cases where alternative methods of notice can provide sufficient notice and the parties which would receive the alternative notice would be only those which are least likely to be impacted by the proposed amendment. The size of the parcel and the intensity of the development around the subject parcel will be considered. However, large sized projects can expect to be required to provide larger numbers of notices because of the greater area which the project directly impacts. The Administrator shall be required to make a finding that the following criteria have been met:
  - a. In no case would notice be waived to property owners less than 250 feet in every direction from the subject property in the rural areas and 150 feet in every direction from the subject property in urban areas; and
  - b. The alternative form of notice shall reasonably alert the parties of the amendment action (for example, a condominium complex which has only a small portion of its property within the notification distance and no part of its property within the distance requirement in Paragraph 1 immediately above may receive notice to its Board of Directors more than the minimum requirement of 30 calendar days rather than the proof of mailing notice required to each condominium owner); and
  - c. The number of notices required shall not be less than 200 unless the alternative notice method affects a group of property owners such that it is impossible to notice one property owner without noticing the entire group; and
  - d. The notice pattern shall be as uniformly applied in all directions as is physically possible.

F. Neighborhood Bill of Rights

The Board of County Commissioners recognizes that citizens of neighborhoods have an interest in participating in the planning process and development issues which affect them. To achieve that end, notice shall be provided by the applicant to all duly registered organizations on the Registry of Neighborhood Organizations and Civic Associations whose geographic boundaries lie within one mile of the subject site for any proposed development requiring final approval of the Board of County Commissioners or the LUHO. Accordingly:

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1. The Hillsborough County Office of Neighborhood Relations shall maintain a Registry of Neighborhood Organizations and Civic Associations.
  2. To register as a Neighborhood Organization, an organization shall provide the name and address of its authorized representative(s), a map which graphically identifies the boundaries of its neighborhood, and any other relevant information as may be required by the Administrator. Additionally, the organization shall provide evidence it meets all of the following requirements:
    - a. The organization is comprised of residents within a defined geographic area.-
    - b. There are a minimum of 50 households within the defined geographic area.-
    - c. The residents of at least 50 percent of all households in the defined geographic area are members of the organization.-
    - d. That membership in the organization is established by virtue of residency or occupancy in the defined geographic area.-
    - e. That the organization maintains officers or representatives, including the method by which such officers or representatives are selected. The method may be documented by copies of by-laws, covenants or deed restrictions if the method is specified therein.-
    - f. That the organization has a means to appoint a contact person.-
    - g. That the organization's officers or representatives are authorized to act on behalf of the organization. This authorization may be documented by copies of by-laws, covenants or deed restrictions.-
  3. To be registered as a Civic Association, the association must be chartered, area-wide and with dues paying members. The association must submit a copy of its charter with the application. Membership on the registry will allow the association to receive courtesy notice of applications within its area. However, receipt of the notice will not qualify the association as a party of record.

G. Notice Content

1. Mailed and published notices shall contain the following information:
  - a. Application number and date of filing.-
  - b. Present and proposed zoning classifications and/or proposed Special Use or proposed change if major modification.-
  - c. Location of the property.-
  - d. Date, time, and place of Land Use Hearing Officer public hearing.-
  - e. A statement in substantial compliance with the following form:
    - (1) Copies of the application and department reports are kept by the Administrator and are open to public inspection in the offices of the Clerk of the Board and the Administrator.
    - (2) All interested persons wishing to submit testimony or other evidence in this matter may ~~must~~ submit same to the Land Use Hearing Officer at the public hearing before ~~him~~them or to the Administrator two business days prior to the public hearing.
  - f. A statement in substantial compliance with the following form: ~~The review of the Land Use Hearing Officer's recommendation by the~~ Board of County Commissioners of Hillsborough County ~~shall be restricted to~~ will review department and agency reports including any recommendations and conditions, the record ~~of the Land Use Hearing Officer and their written~~ advice report, and any evidence or testimony submitted into the record subsequent to the hearing before the Land



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~~Use Hearing Officer in accordance with the requirements of this Code up to the time of action on the application by the Board of County Commissioners as defined in the Hillsborough County Land Development Code, as amended, unless additional evidence and/or oral argument is presented pursuant to the terms of said Code.~~

- g. Instructions for obtaining further information regarding the application.-
  - h. Name, address and telephone number of applicant or applicant's agent.-
  - i. [Information on how to participate in the public hearing before the Land Use Hearing Officer](#)
2. In addition to the foregoing, mailed notices shall include the following:
- a. Due date of the staff recommendation on the application.
  - b. A statement requesting that citizen input be submitted to the County prior to the formulation of the staff report and recommendation to allow for citizen involvement prior to staffs reaching its ~~final~~ recommendation to the Board of County Commissioners or Land Use Hearing Officer, as appropriate.

H. County Department Reports

- 1. When an application has been set for public hearing, the Administrator shall coordinate and assemble the reviews of other departments and governmental agencies having an interest in the application and shall prepare a report summarizing the factors involved and the ~~agency or~~ departmental ~~findings,~~ recommendations, and conditions. This report shall be available at the offices of the Administrator to all persons six calendar days prior to the hearing. The report shall be filed with the Clerk of the Board for inspection by the public.
- 2. The Planning Commission staff shall, for all applications, prepare a separate written statement outlining the points of compliance or noncompliance with the ~~Future of Hillsborough Comprehensive Plan for Unincorporated Hillsborough County Comprehensive Plan adopted by Hillsborough County pursuant to the Hillsborough County Local Government Comprehensive Planning Act of 1975, as amended,~~ and shall file said statement with the Administrator at least ~~12-10~~ calendar days prior to the date of the hearing before the Land Use Hearing Officer, with copy thereof submitted to the Clerk of the Board with the Administrator's report referenced above.

(Ord. No. 97-18, § 2, 12-18-97; Ord. No. 99-25, § 2, 11-18-99; Ord. No. 99-26, § 2, 11-18-99; Ord. No. 00-21, § 2, 5-18-00; Ord. No. 00-38, § 2, 11-2-00; Ord. No. 02-13, § 2, 8-1-02; Ord. No. 03-9, § 2, 6-5-03; Ord. No. 05-10, § 2, 6-16-05, eff. 10-1-05; Ord. No. 05-22, § 2, 11-17-05; Ord. No. 06-18, § 2, 8-1-06; Ord. No. 09-53, Item Q, 6-11-09, eff. 10-1-09; Ord. No. 15-32, § 2(Exh. A) (15-1270), 12-8-15, eff. 12-14-15; Ord. No. 20-17, § 2(Exh. A), 9-24-20, eff. 10-2-20; Ord. No. 21-18, § 2(Exh. A), 5-20-21, eff. 5-27-21; Ord. No. 21-41, § 2(Exh. A), 10-21-21, eff. 10-28-21)

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### Sec. 10.03.03. Public Hearing Before the Land Use Hearing Officer

#### A. Participants

The participants before the Land Use Hearing Officer shall be the applicant, County agencies, proponents, and opponents, inclusive of the public and witnesses with relevant testimony. The proponent shall be defined as a participant in favor of the application, exclusive of the applicant; whereas, the opponent shall be defined as a participant against the application. Both definitions are inclusive of the public and any other parties of record.

#### B. Order of Presentation

The order of appearance and total time allotments shall be as follows:

1. ~~Applicant and witnesses; proposal: 15 minutes;~~
2. Administrator; summary of the application, County staff and department findings: ~~five~~5 minutes;
3. Planning Commission staff; ~~summary of~~ statement of compliance or noncompliance: ~~five~~5 minutes;
3. ~~Applicant and witnesses; proposal: 15 minutes;~~
4. Proponents; argument for the application: 15 minutes;
5. Opponents; argument against the application: 15 minutes;
6. Staff; amended recommendations, if any: ~~five~~5 minutes;
7. Applicant; rebuttal and summation: ~~five~~5 minutes.

For good cause shown, the Land Use Hearing Officer may grant additional time.

#### C. Nature of Hearings

To the maximum extent practicable, the hearings shall be informal. Questioning shall be confined as closely as possible to the scope of direct testimony. The Land Use Hearing Officer may call and question witnesses as ~~he~~they deems necessary and appropriate. The Land Use Hearing Officer shall decide all questions of procedure.

#### D. Evidence

Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Any part of the evidence may be received in written form, and all testimony shall be under oath. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient, in itself, to support a finding by the ~~Board of County Commissioners~~Land Use Hearing Officer unless it would be admissible over objections in a civil action.

#### E. Matters To Be Considered by the Land Use Hearing Officer ~~in Making Recommendation~~

The Land Use Hearing Officer shall consider, ~~in addition to~~ all evidence presented at ~~and prior to~~ the hearing, ~~including but not limited to~~ the following as ~~they may be~~ are relevant ~~to in making his recommendation on~~ ~~each~~ application, which are not listed in any particular order:

1. ~~The report and recommendation prepared by the Administrator~~
2. ~~The written statement prepared by Planning Commission staff~~
3. The zoning history of the subject parcel.-
4. Applicable zoning regulations promulgated by the Board of County Commissioners.-
5. The Comprehensive Plan.-

- 46. Reports and recommendations filed by reviewing agencies.-
- 57. Uses permitted and the characteristics of the requested zoning classification.-
- 68. Physical characteristics of the subject parcel and surrounding lands.-
- 79. Impact on the surrounding transportation network.-
- 810. Applicable goals, objectives, and policies contained in the Comprehensive Plan.-
- 911. Availability and capacity of public services-
- 120. Nature of and impacts on surrounding land use.-
- 134. Environmental impact of the use.-
- 142. Applicable development standards promulgated by the Board of County Commissioners. -

F. ~~Application Summary and Basic Compliance Matters and Advice~~ Findings and Recommendations of the Land Use Hearing Officer Report

~~For each application, the recommendation of the Land Use Hearing Officer shall include produce a written advice report to the Board of County Commissioners that includes the following:~~

1. ~~Summary of the request made in the application of evidence presented.-~~
2. Summary of the report and recommendation prepared by the Administrator
3. Summary of the written statement prepared by Planning Commission staff
4. Summary of the evidence and testimony presented at the public hearing
25. ~~Identification of applicable regulations, Comprehensive Plan provisions, technical standards and principles that are relevant to the review of the application Findings of fact.-~~
36. ~~Findings of Fact Advice on all points of compliance and any points of non-compliance of the application with applicable regulations, technical standards and principles. All such advice shall include an indication of the basis of the advice Conclusions of law.~~
4. ~~Advice on A finding of compliance or a finding of allany points of noncompliance with the Comprehensive Plan.-~~
57. ~~A recommendation to the Board of County Commissioners to either Advice on A recommendation to either approve approving or deny disapproving or taking any other action relative to the application and the basis of such recommendation or deny the application with reasons therefore specified, including any recommended conditions.~~

It is the express intent of the Board of County Commissioners that the Land Use Hearing Officer report and the findings of fact and recommendation contained therein shall only constitute a portion of the record for each application and shall not bind or otherwise compel any particular decision or action by the Board of County Commissioners. The Board of County Commissioners is the sole authority for final decisions regarding the approval or denial of applications filed pursuant to this Part.

G. ~~Compliance With Comprehensive Plan~~

~~No application for rezoning, or Special Use Permit, shall be recommended for approval by the Land Use Hearing Officer unless it is found that the application is in compliance with the Comprehensive Plan.~~

HG. Record of Hearing Before the Land Use Hearing Officer

1. An audio recording of all public hearings before the Land Use Hearing Officer shall be recorded by the Clerk of the Board and also recorded by an official court reporter.

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2. The record of the hearing before the Land Use Hearing Officer shall consist of:

~~1. An audio recording of all public hearings before the Land Use Hearing Officer shall be recorded by the Clerk of the Board and also recorded by an official court reporter.~~

~~2. The record of the hearing before the Land Use Hearing Officers shall consist of:~~

a. The application and accompanying documents.

b. Staff reports and recommendations.

c. All exhibits and documentary evidence.

~~d. The summary, findings, conclusions, and recommendation of the Land Use Hearing Officer.~~

~~ed.~~ The audio recording of testimony at the hearing.

~~fe.~~ Verbatim transcript of the proceedings.

~~gf.~~ All applicable laws, regulations, technical manuals, policies and any other authority applicable to the application. ~~Applicable official Zoning Atlas sheets.~~

I. Posted Information in the Land Use Hearing Officer's Hearing Room

A copy of the recommendation of the Land Use Hearing Officer is required to be filed with the Clerk of the Board within 15 working days after the conclusion of the public hearing before said master. ~~Persons wishing to receive a copy of the recommendation by mail may supply the Clerk of the Board with their name, address, and a stamped, self-addressed envelope for that purpose.~~

(Ord. No. 97-18, § 2, 12-18-97; Ord. No. 06-18, § 2, 8-1-06)

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## Sec. 10.03.04. Review by Board of County Commissioners

### A. Generally

The ~~record of the public hearing and the recommendation of the Land Use Hearing Officer will be considered by the~~ Board of County Commissioners shall consider each application for final decision at a public meeting noticed in accordance with the terms of this Code. The Board of County Commissioners may act on any application as part of a "Consent Agenda" which is established in accordance with criteria established by the Board of County Commissioners.

### B. Notice Date for Board of County Commissioners Consideration

1. Any person wishing to receive notice of the date when the Board will consider the application for rezoning or Special Use Permit may supply the Clerk of the Board with their name, address, and a stamped, self-addressed envelope for that purpose.
2. The Administrator shall arrange for the setting of a date and time at which the Board of County Commissioners will consider an application.
3. The Clerk of the Board shall give notice of the set date and time at which the Board of County Commissioners will consider an application for final decision by proof of mailing to the applicant and to parties who attended and presented evidence at the hearing before the Land Use Hearing Officer, and to parties who submitted written evidence to the Land Use Hearing Officer not less than two business days prior to the Land Use Hearing Officer hearing. Such notice shall be mailed at least 20 calendar days prior to the date set.

### C. Evidence Before the Board of County Commissioners

1. The record before the Board of Commissioners upon consideration of an application shall ~~be include~~ department and agency reports including any recommendations and conditions, the complete record of the hearing before the Land Use Hearing Officer, and their written advice report and any evidence or testimony submitted into the record subsequent to the hearing before the Land Use Hearing Officer in accordance with the requirements of this Code up to the time of action on the application by the Board of County Commissioners. ~~including his recommendation. Except in those instances where the application involves a proposed zoning classification change or Special Use request that is either initiated by the County or is part of the review and application for development approval pursuant to Chapter 380.06, Florida Statutes, the Board, after reviewing the record and recommendation, shall consider additional evidence, and oral argument only as provided in D below.~~
2. ~~Applications initiated by the County or considered as part of the review of an application for Development of Regional Impact approval shall be considered by the Board within the context of a public hearing as below. All irrelevant, immaterial or unduly repetitious evidence shall be excluded. The record shall be transmitted to the Board at least five calendar days prior to the date set for final consideration by the Board.~~
23. In those instances where the application involves a proposed zoning classification change or Special Use Permit approval, initiated by either the Board of County Commissioners or the Administrator, the Board shall consider the record of the Land Use Hearing Officer hearing and the recommendation within the context of a public hearing at which all interested individuals and County staff will be given an opportunity to present testimony and other evidence. Said public hearing shall be advertised in accordance with the terms of B above and Section 125.66, Florida Statutes. Said public hearing shall be conducted in accordance with the terms of this Code relating to conduct of the public hearing by the Land Use Hearing Officer. Provisions of D below shall not be required in this context.

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4. ~~In those instances where the application involves a proposed zoning classification change or Special Use Permit approval which is being considered as a part of the review of an Application for Development of Regional Impact Approval pursuant to Chapter 380.06, Florida Statutes (1981), as amended, the Board shall consider the record of the Land Use Hearing Officer hearing and the recommendation within the context of a public hearing at which all interested individuals and County staff will be given the opportunity to present testimony and other evidence. Said public hearing shall be advertised in accordance with the terms of B above and Section 380.06, Florida Statutes (1981). Said public hearing shall be conducted in accordance with the terms of this Code relating to conduct of the public hearing by the Land Use Hearing Officer. Provisions of D below shall not be required in this context. The Application for the Development of Regional Impact Approval shall be reviewed in accordance with those procedures mandated by law.~~

D. Additional Evidence and Oral Argument~~Open Record Period~~

1. ~~The Board of County Commissioners shall consider any evidence or testimony submitted into the record subsequent to the hearing before the Land Use Hearing Officer up to the time of action on the application by the Board of County Commissioners. only the record of the proceedings before the Land Use Hearing Officer, unless additional evidence and/or oral argument is accepted pursuant to the terms of this Section. The provisions contained herein relating to restricted presentations before the Board do not apply to public hearings convened by the Board to consider applications initiated by the County or that are part of the Development of Regional Impact review process. These public hearings are governed by the provisions of C above.~~

2. ~~Additional evidence may be allowed pursuant to the provisions of this Subsection, if:~~

a. ~~Through the exercise of due diligence it could not have been discovered in time to present same to the Land Use Hearing Officer; and/or~~

b. ~~The witness could not appear at the public hearing for good reason beyond his control.~~

32. ~~Subsequent to the close of the Land Use Hearing Officer hearing on an application, any person may submit written or documentary materials to the master fileAdministrator until 25:00 p.m. on the 7 business days preceding prior to the day the application is scheduled forof consideration by the Board of County Commissioners. The Administrator shall include such written or documentary materials in the record for the application. Within ten calendar days after the date of filing of the Land Use Hearing Officer's recommendation, the individual seeking to introduce the additional evidence described in 2 above, shall file with the Clerk of the Board a written request including:~~

a. ~~The additional evidence; and~~

b. ~~The reasons why the evidence could not through the exercise of due diligence have been discovered in time to present same to the Land Use Hearing Officer; and/or~~

c. ~~The reasons why the witness could not appear.~~

4. ~~The request shall be filed on forms available from the Administrator. A copy of said request shall be maintained by the Administrator and maintained in a master file available to the public and the Board.~~

5. ~~The additional evidence, if documentary, shall be attached to the request. If testimonial in nature, a summary of the testimony shall be provided.~~

6. ~~The Board shall consider the request for presentation of additional evidence and responses thereto at the public meeting on the Land Use Hearing Officer's recommendation. Staff of the Office of County Attorney shall review the additional evidence request in regard to whether or not the request meets the criteria stated in 2 above and whether or not the additional evidence is duplicative of material already in the record before the Land Use Hearing Officer. Staff of the County Attorney's Office shall~~

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report its findings at the meeting before the Board. The Board shall remand the proceeding to the Land Use Hearing Officer for the purpose of consideration of the additional evidence if he finds all the following:

- a. ~~The additional evidence could not through the exercise of due diligence have been discovered in time to present same to the Land Use Hearing Officer, or the witness could not appear at the public hearing for good reason beyond his control.~~
- b. ~~That the additional evidence is not duplicative of material already in the record before the Land Use Hearing Officer.~~
- c. ~~The evidence is relevant to the issues raised by the petition at issue.~~
7. ~~If the Board finds that the additional evidence is not admissible based upon the criteria contained herein, then the Board shall deny the request and proceed to consider the petition. The Board of County Commissioners shall specifically state on the record why a request has been denied. Once a request is denied, the material presented shall not be considered by the Board in its deliberations.~~
8. ~~If the Board finds that the additional evidence is admissible and therefore elects to remand the proceedings to the Land Use Hearing Officer, then the Board shall establish a date for said hearing. The remanded proceedings shall be conducted in accordance with the terms of this Code applicable to proceedings before the Land Use Hearing Officer, except that said proceeding does not have to be noticed. At the conclusion of the remanded proceedings, the Land Use Hearing Officer shall file an amended recommendation which has considered the introduction of the additional evidence. The Clerk of the Board shall notice all parties of record of the new set time and date at which the Board will consider an application for a final decision.~~
9. ~~If the applicant elects to waive any objection to the additional evidence, the Board of County Commissioners may proceed to consider the petition without remand.~~

E. Testimony before the Board of County Commissioners~~Oral Argument~~

1. The Board shall allow public testimony ~~by Parties of Record~~ at its meeting to consider any application~~the Land Use Hearing Officer's recommendation for any item on the Regular that is not part of the Consent Agenda. Any public testimony shall be limited to the record of the proceedings before the Land Use Hearing Officer, unless additional evidence has been found admissible in accordance with this Part.~~
2. For applications which are subject to public testimony~~oral argument~~, the order of appearance and total time allotments shall be as follows:
  - a. ~~Applicant oral argument~~testimony: Ten minutes.
  - ~~ba.~~ Administrator; summary of the application, County staff and department findings: five~~5~~ minutes.
  - ~~eb.~~ Planning Commission staff; statement of compliance or noncompliance: five~~5~~ minutes.
  - c. Applicant testimony: 15 minutes
  - d. Testimony Party of record~~oral argument~~ by proponents: ten~~15~~ minutes.
  - e. Testimony Party of record~~oral argument~~ by opponents: ten~~15~~ minutes.
  - f. Staff; amended recommendations, if any: five~~5~~ minutes.
  - g. Applicant; rebuttal: five~~5~~ minutes.
- ~~F.3.~~ If the Board finds in its reasonable discretion that the application requires oral argument~~has raised issues that require~~ further Land Use Hearing Officer review, then the Board shall have~~reserves~~ the right

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to continue the application and direct any appropriate action by the Administrator or to remand the application for further proceedings ~~to~~by the Land Use Hearing Officer. If the Board decides to remand the proceedings, then the Board shall establish a date for said hearing. The remanded proceedings shall be conducted in accordance with the terms of this Code applicable to proceedings before the Land Use Hearing Officer, except that said proceedings do not have to be renoticed. At the conclusion of ~~any~~the remanded proceedings, the Land Use Hearing Officer shall file ~~an~~ amended written report~~advice~~recommendation which that considers the issues addressed by the Board. The Clerk of the Board shall renotify all parties of record of the new set time and date at which the Board will consider an application for a final decision.

GF. Continuances Before the Board

1. The public meeting may be continued by the Administrator to a date certain if the continuance request is filed with the Administrator no less than 14 calendar days before the Board's meeting date. The Administrator shall determine whether the continuance shall be granted due to the petitioner or expert witness being unable to attend, or if it is known that the full Board will not be in attendance.
2. If the continuance request is granted, ~~the~~ applicant shall send notice of the continuance by proof of mailing to all parties of record no less than 11 calendar days before the Board's meeting. This notification shall include the new time, date, and location of the meeting.
3. If the criteria for granting a continuance as listed in 1 above are not satisfied, the continuance request shall be considered by the Board at its meeting when the petition was scheduled for consideration.
4. At the Board's reasonable discretion ~~for unique circumstances,~~ the Board may continue an application ~~petition~~ at the Board meeting without notification.

G. Consideration and Final Decision of the Board

1. The Board shall consider department and agency reports including any recommendations and conditions, the complete record of the hearing before the Land Use Hearing Officer and their written ~~advice~~report, and any evidence or testimony submitted into the record subsequent to the hearing before the Land Use Hearing Officer in accordance with the requirements of this Code up to the time of action on the application by the Board of County Commissionersthe record of the hearing before the Land Use Hearing Officer, any additional evidence and oral argument introduced pursuant to the terms herein and shall approve or deny the application by resolution. Any resolution denying an application~~The resolution~~ shall include a statement of compliance or all points of noncompliance with the Comprehensive Plan, if different from the conclusions of the Land Use Hearing Officer, and shall give specific reasons for such denial ~~any decision contrary to his recommendation.~~ A resolution approving an application shall specify any conditions which are required as part of the Board's approval.
2. ~~The Board reserves the right to continue the public meeting upon a finding that said continuance is necessary to a complete review of the Land Use Hearing Officer's recommendation. Said continuance shall be to a date and time certain.~~
3. ~~The Board reserves the right to remand a petition to the Land Use Hearing Officer when sufficient additional evidence after the Land Use Hearing Officer hearing is provided or when the petition requires further Land Use Hearing Officer review.~~

(Ord. No. 99-25, § 2, 11-18-99; Ord. No. 99-26, § 2, 11-18-99; Ord. No. 00-38, § 2, 11-2-00; Ord. No. 01-30, § 2, 11-15-01; Ord. No. 03-9, § 2, 6-5-03; Ord. No. 06-18, § 2, 8-1-06; Ord. No. 21-18, § 2(Exh. A), 5-20-21, eff. 5-27-21)



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## Sec. 10.03.05. Modification and Withdrawal of Applications

### A. Modification

1. Requests to modify an application filed prior to the mailing of notice for the hearing before the Land Use Hearing Officer shall be granted by the Administrator as a matter of right. If the Administrator finds, based upon the nature of the requested modification, that the modification can be accomplished in a timely fashion so as to not disrupt original review periods, then said review shall proceed and a hearing shall be held within the ~~original 60 or 90 calendar day~~ review period referenced in Section 10.03.02.C.1.
2. If the Administrator finds that additional time is required to review said request, then County staff shall have an additional period to review said request. The scheduled public hearing before the Land Use Hearing Officer shall be convened and continued to a date certain to allow additional staff review.
3. Requests to modify an application, filed after the date of mailing of notice for the hearing before the Land Use Hearing Officer, shall be considered by the Land Use Hearing Officer at the public hearing. The Land Use Hearing Officer shall grant said request as a matter of right.
4. Any modifications or changes, as listed in Section 5.03.04, to a general development plan filed less than 20 calendar days prior to the hearing shall require a continuance of the application to future hearing.
5. If the Administrator finds, based upon the nature of the requested modification and the review criteria contained in 10.03.03.E herein that renote of the application as modified is required, then the Administrator shall establish a continuance date for the public hearing and shall direct the renote of the application by proof of mailing as modified. During the interim, appropriate staff shall have an opportunity to review said application as modified and submit recommendations.
6. If the Administrator finds, based upon the nature of the requested modification, the review criteria contained in 10.03.03.E above, and County staff comment that additional review is required, then the Administrator shall establish a continuance date for the public hearing. During the interim, appropriate staff shall have an opportunity to review said application as modified and submit recommendations.
7. If the requested modification does not require notice or review, then the Land Use Hearing Officer shall consider the application as modified and submit a recommendation in accordance with the terms contained in this Code.
8. Requests to modify an application filed after the conclusion of the hearing before the Land Use Hearing Officer, but no less than ten days prior to the scheduled review by the Board of County Commissioners, shall be referred to the Administrator who shall grant said request as a matter of right. The Administrator shall assign a new public hearing date and thereafter process the application as modified in the same manner as a new application. The applicant, shall, within three days of requesting said modification mail notice of the new public hearing date to all parties of record. Requests to modify an application filed within ten days before the scheduled review by the Board of County Commissioners shall be considered by the Board on a case by case basis. If the remand is granted, the applicant shall mail notice of the new public hearing date to all parties of record in accordance with the notice procedures outlined in Section 10.03.02.D.
9. The modification must exhibit changes as described in 5.03.04.D Major Modifications in order for the Administrator to assign a new hearing date as a matter of right. Applicable fees for processing a major modification shall be assigned by the Administrator.
10. With the exception of those requests which may arise during the course of the hearing before the Land Use Hearing Officer, all requests for modifications shall be in writing and shall be filed with the Clerk of the Board and the Administrator.

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B. Withdrawal of Application

1. The applicant has the right at any stage of the proceeding to withdraw the application upon written notification to the Administrator.
2. The applicant may also withdraw the application on the record, either verbally or in writing, at the public hearing or public meeting where the application is scheduled to be heard by the Land Use Hearing Officer and/or the Board of County Commissioners.
3. Nothing contained herein shall authorize a Land Use Hearing Officer to waive or refund any filing fee.

(Ord. No. 99-25, § 2, 11-18-99; Ord. No. 99-26, § 2, 11-18-99; Ord. No. 04-46, § 2, 11-4-04; Ord. No. 06-18, § 2, 8-1-06; Ord. No. 08-29, § 2, eff. 2-1-09; Ord. No. 10-9, § 2, Item A(10-0170), 5-27-10, eff. 10-1-10)

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## Sec. 5.03.06. Review procedures

### A. Generally

Except as modified below, the Procedure for Amendments to the Official Zoning Atlas in Part 10.03.00 of this Code and Section 6.0 of the Development Review Procedures Manual shall be followed in the review of a PD application.

### B. Pre-submittal Requirements

1. Pre-Submittal Conference - Prior to submitting an application for a PD or PD-S District, the applicant shall be permitted to have a pre-submittal conference with Zoning and other applicable staff. If the petitioner elects to have a pre-submittal conference, a sketch plan shall be provided for review at the conference which is intended to address the following:
  - a. The relationship between the anticipated project and surrounding uses and the consistency of the proposed development with the County's Comprehensive Plan and/or stated planning and development principles of the Land Development Code.
  - b. The nature, design and appropriateness of the proposed land use arrangement for the size and configuration of the property involved.
2. Neighborhood Meeting - An applicant shall be required to conduct a neighborhood meeting if requested by any resident that received mailed notice of the rezoning provided the meeting is requested 14 calendar days prior to the [Zoning Hearing Master Land Use Hearing Officer](#) Hearing . The applicant's contact information (name, telephone number, and/or email address) shall be included in the rezoning notice. This information is to be utilized for contacting the applicant's representative to obtain additional information and for requesting a neighborhood meeting.

Applicant Initiated Neighborhood Meeting - As an option to satisfy the neighborhood meeting requirement, the applicant may conduct a neighborhood meeting prior to and in lieu of receiving a request by a noticed resident. If the applicant chooses to have the neighborhood meeting, notice of the meeting (to include the location, time, and date of the meeting) must be included in the required mailed notice of the rezoning. The applicant initiated neighborhood meeting must be held a minimum of 10 days after the required notice deadline.

- a. If a neighborhood meeting is required, or initiated by the applicant to satisfy this requirement, the meeting must start between 6:00 pm and 7:30 pm on weekdays and between 9:00 am and 5:00 pm on weekends. The meeting must be held within the general area of the subject application. A summary of the meeting as well as a sign-in sheet for those attending the meeting shall be submitted by the applicant for inclusion in the staff report.
  - b. Mailed notice of the neighborhood meeting shall comply with notification distances set forth in Section 10.03.02.E.1 and to neighborhoods which qualify in Section 10.03.03.F
- ### C. Actions by the Board of County Commissioners
1. Actions by the Board shall be as provided for amendments generally. It may grant the application in accord with PD and other applicable regulations, approve with modifications and/or conditions, or may deny the application.
  2. If the amendment is granted, the Board shall, in its amending action, approve the General Development Plan or indicate required modifications or conditions. Such approved plans, with any required modifications or conditions, shall be binding in determinations concerning consistency of applicable subdivision and site development plans.

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3. If the amendment is granted, the development shall be required to be in accord with applicable subdivision and site development plans meeting the requirements of these and other regulations, as supplemented or modified by the Board in the particular case as part of the amending action, and shall conform to any time limitations established by the Board on beginning and completion of the development as a whole or in specified stages.
  4. Before development may proceed, any required agreements, contracts, sureties, and other instruments involved must be executed and found to be in compliance with the Board of County Commissioner's conditions by the appropriate officer(s) and agencies.
  5. If in approving the amendment the Board designates by condition any site design features or conditions which it identifies as being a "critical design feature", then any proposed alteration to such a feature or condition shall require a public hearing, as provided in Section 5.03.07.A. A critical design feature is any essential feature or condition of zoning identified by the applicant and confirmed by the public as necessary to the development of the planned development (PD) district which upon review is designated as such by the Board.
  6. Variations for Site Design
    - a. The purpose of the Planned Development District is to allow flexibility in certain site development standards in order to achieve creative, innovative, and/or mixed use development. The following non-district regulations may be varied as part of a Planned Development based upon the criteria contained herein:
      - (1) Part 6.05.00, Parking and Loading Requirements;
      - (2) Part 6.06.00, Landscaping, Irrigation, and Buffering Requirements; and
      - (3) Part 6.07.00, Fences and Walls.
      - (4) Requests to vary any other non-district regulations in this Code must be reviewed and approved through separate application in accordance with Part 11.04.00.
    - b. The following are the criteria for consideration of a variation through a Planned Development District:
      - (1) The variation is necessary to achieve creative, innovative, and/or mixed use development that could not be accommodated by strict adherence to current regulations.
      - (2) The variation is mitigated through enhanced design features that are proportionate to the degree of variation.
      - (3) The variation is in harmony with the purpose and intent of the Hillsborough County Land Development Code.
      - (4) The variation will not substantially interfere with or injure the rights of adjacent property owners.
    - c. The project narrative shall include a description of each variation being requested and a description of how each variation complies with the criteria contained herein. The PD site plan must identify all variations being proposed.
    - d. Recommendations of the [Zoning Hearing Master](#) [Land Use Hearing Officer](#) and the Zoning Administrator shall include a finding regarding whether the variations requested as part of a Planned Development rezoning meet the criteria. Approval of any planned development that includes a variation of non-district regulations shall constitute a finding by the BOCC that the variations meet the criteria contained herein.

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7. Approval by the Board of County Commissioners of a PD-S District site plan with the Concurrent Preliminary Plat, Site Development Review and/or Construction Plan Option shall also constitute approval of the Preliminary Site Development Plan, Preliminary Plat and/or Construction Plan. However, the Preliminary Site Development Plan, Preliminary Plat and/or Construction Plan shall be subject to expiration six months from the approval date of the PD-S District, in accordance with expiration procedures set forth in the Development Review Procedures Manual (DRPM) for Preliminary Plans, Preliminary Plats and/or Construction Plans.

D. Applicability of Subdivision and/or Site Development Plan Regulations

After a PD or PD-S district has been established, no Building Permit shall be issued therein unless and until the applicable subdivision construction plans or site development construction plans have been approved in accordance with the provisions contained in this Code. Such subdivision and site development plans shall be consistent with the approved Certified General Development Plan, all commitments made and any restrictions placed on the approved Certified General Development Plan, and any documents, graphic, map, or other such information provided as part of the official record for the approval of the PD district.

E. Conflicts

In cases where the approved certified site plan graphic and/or notes are in conflict with specifically approved zoning conditions, the more restrictive requirement shall prevail. Where there are conflicts between the certified site plan graphics or list of conditions and non-district related regulations in the LDC, the most restrictive requirement shall prevail unless a variance has been requested by the applicant and approved with the appropriate findings by the Board of County Commissioners, as provided by Section 5.03.06.B.6.

F. General Site Plan Certification

1. The general site plan that is to be certified as part of the PD approval process must be submitted to the County prior to approval of the PD application by the Board. If changes are made to the site plan at the BOCC hearing, then approval of the site plan and zoning shall be continued to the next meeting. Any and all changes to the list of conditions must be certified by the Administrator within 30 days of approval by the Board.

(Ord. No. 06-18, § 2, 8-1-06; Ord. No. 08-30, § 2, eff. 2-1-09; Ord. No. 14-3, § 2(Exh. A), (Item IV-A), (13-0719), 1-30-14, eff. 2-6-14; Ord. No. 21-18, § 2(Exh. A), 5-20-21, eff. 5-27-21)

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## Sec. 8.02.02. Operating Permit Review Procedures

Review procedures shall be as set forth in the Development Review Procedures Manual, Section 6.4.

### A. General Requirement

1. A phosphate mining operating permit will be issued only after the submission and review of a completed application to the Administrator, reviewed by the Phosphate Mining Hearing Master or [Zoning Hearing Master Land Use Hearing Officer](#) as appropriate, and approval by the Board. Engaging in any mining activity or operation pursuant to a permit constitutes the permittee's acceptance and approval of civil penalty assessments and other penalties and remedies contained in 11.06.00.
2. Where an application for an operating permit is submitted in conjunction with an application for a Development of Regional Impact, both applications shall be reviewed by the [Zoning Hearing Master Land Use Hearing Officer](#) and the Board of County Commissioners pursuant to the procedures set forth in 10.03.00. The DRI application shall be treated in accordance with all requirements and procedures set forth in Chapter 380, Fla. Stat., and rules duly adopted thereunder.

### B. Issuance

1. Following approval by the Board of an application, the Administrator shall issue an operating permit to the applicant or his authorized agent, provided that he has furnished evidence of financial responsibility which meets all requirements of 8.02.10 of this Code; and
  - a. If evidence of insurance or surety bonds is furnished, such is valid as of the date of issuance of the operating permit and for a period of one year thereafter; or
  - b. If financial statements are furnished, such are updated within sixty (60) calendar days prior to issuance of the operating permit.
2. The effective date of any operating permit shall be the date of its issuance or a subsequent date specified by the Board.
3. An operating permit shall be valid for the period specified for completion of the operations, including all reclamation, set out in the approved mining and reclamation plan; provided that a review demonstrates compliance with the terms of this Land Development Code, and any regulations adopted thereunder, and provided that a review of the operating permit itself shall be conducted annually as required by 8.02.09 of this Code.
4. The operating permit shall specify the scope of operations. Plans of operation submitted with the operating permit application, and recommendations made by the Board may be incorporated into the scope of operations of the operating permit.
5. The permittee shall allow designated representatives of the Board and the Environmental Protection Commission to enter upon any property covered by an operating permit with or without advance notice, for the purpose of inspection to ensure compliance with this Land Development Code and the terms and conditions of the operating permit. Except in a bona fide emergency, representatives of the Board and the Environmental Protection Commission shall contact a representative of the permittee prior to their entering upon any property covered by a permit so that representatives of the permittee may accompany County personnel to insure compliance with federal, company and insurance safety regulations. To the extent possible, individual representatives of the Board and the Environmental Protection Commission are encouraged to contact each other and coordinate inspections at a mine site.
6. The permittee shall be subject to absolute liability, without necessity of proof of negligence in any form or manner, to any injured party for damages resulting from failure of any dam, spillway, or other outlet

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structure of a settling or thickening pond, or from failure of the permittee to complete reclamation of lands as required by the permit. Prior to issuance of a permit, the applicant shall enter into a contract with the Board guaranteeing the performance of the reclamation operations and the performance of its proposed settling or thickening pond dams, spillways or other outlet structures and establishing liquidated damages to be paid the County in the event of any breach of said contract. In order to provide assurance of ability to respond in damages commensurate with potential liability, the applicant shall furnish evidence of financial responsibility as required by this Land Development Code. The liabilities under this section shall be in addition to other penalties imposed by other sections of this Land Development Code.

7. The Board may approve all or any portion of the operations for which an operating permit is sought, subject to whatever conditions the Board may deem reasonably necessary and appropriate for the fulfillment of the purposes of this Land Development Code. Additional conditions of approval shall be stated on the face of the operating permit.
8. An operating permit shall be issued in the name of the applicant. An operating permit (or rights acquired thereby) may be wholly or partially transferred if, prior to such transfer, the transferee furnishes satisfactory evidence of financial responsibility as is then required to be maintained on account of the lands or interest therein to be transferred. The transfer shall be accomplished by the issuance of a transfer permit (or partial transfer permit) to the transferee. Upon approval by the Board, the Administrator shall issue such transfer permit at the request of the transferee or his authorized agent. Upon acceptance of the transfer permit, the transferee becomes the permittee under this Land Development Code and assumes the responsibility of compliance with all the terms of this Land Development Code and of the operating permit.
9. Transfer (including by termination of any leasehold or other interest) of the permittee's interest in any lands which are the subject of a valid operating permit to anyone who has not been issued a transfer permit in accordance with 8.02.02 D shall constitute grounds for immediate suspension of the permit.
10. If at any time during the term of the permit the permittee fails to comply with this Land Development Code or the appropriate rules and regulations of other departments or agencies of the County, the Administrator shall immediately notify the permittee in writing by certified mail and shall order corrective action. Notification may be dispensed with in the event that circumstances establish that irreparable harm may occur if immediate action is not taken. However, the County shall make a reasonable attempt to notify the permittee by telephone or oral communication when a Board action is essential for the public health, safety and welfare.
  - a. The permittee shall comply with such notices and orders within a reasonable time period and will report such compliance in writing to the Administrator. The permittee may appeal the orders of the Administrator to the Board no later than ten working days following receipt of such order, which appeal shall automatically stay the effectiveness of such order. The Administrator may use any available means of enforcement to secure compliance, including prosecution before the Hillsborough County Code Enforcement Board.
  - b. Should the permittee fail to comply with any order of the Administrator or the Board, the Board may suspend the permit.
  - c. Copies of all notices and orders sent to the permittee by the Administrator and reports of compliance from the permittee shall be sent by the Administrator to any agency involved under 8.02.02 A.
11. A permit shall be subject to suspension if at any time there is a finding by the Board of noncompliance with any of the terms of this Land Development Code. The permittee shall be given due notice of any hearing at which such matter is to be considered. In the event that circumstances establish that irreparable harm may occur if immediate action is not taken, due notice may consist of a reasonable

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attempt to notify permittee of such hearing by telephone or other oral communication. In all circumstances, the Administrator shall immediately notify the permittee, in writing, of any Board order or action. While a permit or any part of a permit is under suspension, no operations authorized by the suspended portion of the permit may be carried out, except as approved by the Board. A suspension may be terminated in whole or in part upon a finding by the Board that necessary steps have been taken to correct the noncompliance.

12. Failure on the part of the permittee to comply with any suspension order or to begin mining or mining related activities in accordance with the approved schedule of operations, or the suspension of mining or mining related activities and/or reclamation for a period of two years by a permittee, may be cause for revocation of the permit by the Board. The permittee shall be given due notice of any hearing at which such matter is to be considered. Any subsequent application for permission to commence operations will be treated as an initial application.

C. Amendments to Phosphate Mining Operating Permit

1. When an application to amend an operating permit is submitted in conjunction with an application to amend a Development of Regional Impact Development Order, only the application to amend the operating permit shall be heard by the Phosphate Mining Hearing Master prior to final consideration by the Board of County Commissioners. The application to amend the DRI Development Order shall be brought directly to the Board of County Commissioners for a determination of whether the proposed amendment is a "substantial deviation" as defined in Section 380.06, Fla. Stat. Applications to amend a DRI Development Order shall be treated in accordance with all requirements and procedures set forth in Section 380.06, Fla. Stat., and rules duly adopted thereunder, and shall also be subject to the notice provisions set forth in 8.02.07 F.
2. If the Board of County Commissioners determines that a proposed amendment to a DRI Development Order is not a "substantial deviation", then the Board may, at the same hearing, consider for final determination the application for amendment to the operating permit, provided that all notice requirements have been met.
3. Where the Board of County Commissioners determines that a proposed amendment to a DRI Development Order is a "substantial deviation", public hearings shall be scheduled before the [Zoning Hearing Master Land Use Hearing Officer](#) and the Board of County Commissioners in accordance with the procedures set forth in 10.03.00, and the requirements and procedures contained in Chapter 380, Florida Statutes.
4. Submittal requirements for an application to amend an operating permit shall consist of 16 copies of the requested changes with appropriate engineering documentation to justify the need for the permit amendment, and a list of all property owners, including tax folio numbers and addresses, entitled to receive notice pursuant to 8.02.07 F.

D. Deeding of Reclaimed Lands or Roads to County

The Board may request the deeding of a percentage of reclaimed lands or any permanent roads or other transportation rights-of-way or drainage easements or rights-of-way to the County for public uses, upon termination of phosphate mining or other phosphate processing operations.

E. Fees

The Board of County Commissioners is authorized to set reasonable fees and charges for the implementation of these regulations. Such fees shall be set by resolution. Under no condition shall said fees or any part thereof be refunded for failure of the Board of County Commissioners to approve an application.

(Ord. No. 01-26, § 2, 9-12-01)



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## **Sec. 8.02.07. Consideration by Board of County Commissioners**

### **A. Notice Date for Board of County Commissioners' Consideration**

1. Any person wishing to receive notice of the date when the Board of County Commissioners will consider an application may supply the Clerk of the Board of County Commissioners with their name, address, and a stamped self-addressed envelope for that purpose.
2. A date and time at which the Board of County Commissioners will consider an application shall be established no later than 15 days from the conclusion of the public hearing before the Phosphate Mining Hearing Master. The Administrator shall arrange for the setting of said date and shall ensure that the Clerk of the Board of County Commissioners is advised at least 30 days in advance of said date.
3. Upon notification of the date and time at which the Board of County Commissioners will consider an application for final decision, the Clerk of the Board of County Commissioners shall give notice of same by proof of mailing receipt, to the applicant and to all owners of property who were notified for the public hearing before the Phosphate Mining Hearing Master as required by 8.02.07 F. Other parties of record and all persons who supplied the Clerk with their names, addresses, and a stamped self-addressed envelope for the purpose of receiving notice shall also receive notice. Such notice shall be mailed at least 20 days prior to the date set.

### **B. Evidence Before the Board of County Commissioners**

1. The record before the Board of County Commissioners upon consideration of an application shall be the complete record of the hearing before the Phosphate Mining Hearing Master, including his recommendation. Except in those instances where the application is part of the review and application for development approval pursuant to Chapter 380.06, Florida Statutes, the Board, after reviewing the record and recommendation, shall consider additional evidence only as considered in B.2. below.
2. Additional evidence may be allowed pursuant to the provisions of this Subsection, if:
  - a. Through the exercise of due diligence if could not have been discovered in time to present same to the Land Use Hearing Officer; and/or
  - b. The witness could not appear at the public hearing for good reason beyond his control.
3. Within seven calendar days after the date of filing of the Phosphate Mining Hearing Master's recommendation, the individual seeking to introduce the additional evidence described in 2. above, shall file with the Clerk of the Board a written request including:
  - a. The additional evidence, and
  - b. The reasons why the evidence could not through the exercise of due diligence have been discovered in time to present same to the Land Use Hearing Officer; and/or
  - c. The reasons why the witness could not appear.
4. The request shall be filed on forms available from the Administrator. A copy of said request shall be maintained by the Administrator and maintained in a master file available to the public and the Board.
5. The additional evidence, if documentary, shall be attached to the request. If testimonial in nature, a summary of the testimony shall be provided.
6. The Board shall consider the request for presentation of additional evidence and responses thereto at the public meeting on the Phosphate Mining Hearing Master's recommendation. Staff of the Office of County Attorney shall review the additional evidence request in regard to whether or not the request meets the criteria stated in 2. above and whether or not the additional evidence is duplicative of material already in the record before the Phosphate Mining Hearing Master. Staff of the County

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Attorney's Office shall report its findings at the meeting before the Board. The Board shall remand the proceeding to the Phosphate Mining Hearing Master for the purpose of consideration of the additional evidence if he finds all the following:

- a. The additional evidence could not through the exercise of due diligence have been discovered in time to present same to the Phosphate Mining Hearing Master, or the witness could not appear at the public hearing for good reason beyond his control.
  - b. That the additional evidence is not duplicative of material already in the record before the Phosphate Mining Hearing Master.
  - c. The evidence is relevant to the issues raised by the petition at issue.
7. If the Board finds that the additional evidence is not admissible based upon the criteria contained herein, then the Board shall deny the request and proceed to consider the petition. The Board of County Commissioners shall specifically state on the record why a request has been denied. Once a request is denied, the material presented shall not be considered by the Board in its deliberations.
  8. If the Board finds that the additional evidence is admissible and therefore elects to remand the proceedings to the Phosphate Mining Hearing Master, then the Board shall establish a date for said hearing. The remanded proceedings shall be conducted in accordance with the terms of this Code applicable to proceedings before the Phosphate Mining Hearing Master, except that said proceeding does not have to be renoticed. At the conclusion of the remanded proceedings, the Phosphate Mining Hearing Master shall file an amended recommendation which has considered the introduction of the additional evidence. The Clerk of the Board shall renote all parties of record of the new set time and date at which the Board will consider an application for a final decision.
  9. If the applicant elects to waive any objection to the additional evidence, the Board of County Commissioners may proceed to consider the petition without remand.
- C. Proceedings Before the Board of County Commissioners
1. The participants before the Board of County Commissioners shall be the applicant, County agencies and Parties of Record. The order of appearance and time allotments shall be as follows, provided that for good cause shown, the Board may grant additional time. Testimony shall be limited to matters directly related to the record of the proceedings before the Phosphate Mining Hearing Master.
  2. The presentation shall be as follows:
    - a. Applicant and witnesses; proposal: 15 minutes, plus an additional 15 minutes if requested by the applicant.
    - b. Administrator, summary of the application, County staff and department findings: five minutes.
    - c. Proponents; argument for the application: 15 minutes.
    - d. Opponents; argument against the application: 15 minutes.
    - e. Staff, amended recommendations, if any: five minutes.
    - f. Applicant; rebuttal and summation: five minutes.
  3. The Board of County Commissioners may continue the hearing upon a finding that said continuance is necessary to a complete review of the Phosphate Mining Hearing Master's recommendation. Said continuance shall be to a date and time certain.
  4. The Board of County Commissioners reserves the right to remand an application to the Phosphate Mining Hearing Master when additional review is needed. If the Board elects to remand an application

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to the Phosphate Mining Hearing Master, the Board shall establish a date and time for said hearing, which shall not exceed 45 days from the date of the Board hearing.

D. Party of Record

A party of record is:

1. A person who was present at the hearing before the Phosphate Mining Hearing Master and presented either oral testimony or documentary evidence.
2. A person who was notified of the hearing before the Phosphate Mining Hearing Master by proof of mail pursuant to the terms of this Section.

E. Consideration and Final Decision of the Board of County Commissioners

The Board of County Commissioners shall consider the record of hearing before the Phosphate Mining Hearing Master, and any testimony or additional evidence received pursuant to the terms contained herein, and shall approve or deny the application subject to such conditions as may be necessary and appropriate.

F. Notice


1. Notice of review by the Phosphate Mining Hearing Master of applications for operating permits, amendments to operating permits, operating permit transfers, mining and mining related activities described in 8.02.03, and waivers from the requirements of this Division, shall be provided by the applicant by proof of mailing receipt, to all owners of property within 500 feet of the perimeter of the boundary of the proposed activity. Public rights-of-way less than 1,000 feet in width as measured at the site shall be excluded in calculating notification distances. When a water body less than 1,000 feet in width intervenes in the required notice distance and extends beyond the notice distance, only the property owners adjacent to the water body will receive the extended notice. However, when a water body intervenes, but does not extend beyond notice distance, the water body shall not be recognized for the purpose of notice. The names, addresses and tax folio numbers of all such owners shall be obtained by reference to the latest ad valorem tax records. In addition, notice shall be provided in the same manner to all duly registered neighborhood organizations lying within one mile of the boundary of the proposed activity. Said notice by mail is the responsibility of the applicant and shall be mailed no later than 20 calendar days after filing of the application. Said notice shall be mailed again by the applicant by proof of mailing receipt, upon establishment of the Phosphate Mining Hearing Master's date and Board of County Commissioners meeting date. The notice shall indicate both dates the application will be considered on, in addition to the requirements of 8.02.07 F 5, and shall be mailed no later than 15 calendar days prior to the Phosphate Mining Hearing Master's hearing. In the event the date of the hearing is changed, a new notice shall be sent by the applicant. Further notice shall be given by the Administrator by posting a sign in a conspicuous place on the property which is the subject of the proposed activity at least 15 calendar days prior to the Phosphate Mining Hearing Master's hearing date.
2. Where an application to amend a DRI Development Order is brought to the Board of County Commissioners directly, as authorized in 10.03.00, notice shall be provided by the applicant proof of mailing receipt, to all owners of property within 500 feet of the perimeter of the proposed activity which is the subject of the amendment, excluding public rights-of-way less than 1,000 feet in width. when a water body less than 1,000 feet in width intervenes in the required notice distance and extends beyond the notice distance, only the property owners adjacent to the water body will receive the extended notice. However, when a water body intervenes, but does not extend beyond notice distance, the water body shall not be recognized for the purpose of notice.
3. Notice of review by the [Zoning Hearing Master](#) [Land Use Hearing Officer](#), as well as notice of final consideration by the Board of County Commissioners of the recommendations of the [Zoning Hearing](#)

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[Master Land Use Hearing Officer](#), shall be provided in accordance with 10.03.00 of this Code, and the requirements of Chapter 380, Florida Statutes.

4. Notice of hearings before the Board of County Commissioners for final consideration of applications for operating permits, amendments to operating permits, operating permit transfers, mining and mining related activities described in 8.02.00, and waivers from the requirements of this Part shall be given in accordance with paragraphs 1 through 5 of this section.
5. For purposes of paragraphs 1, 2 and 4 above, mailed notices shall contain the following information:
  - a. Date, time and location of the hearing;
  - b. A description of the request;
  - c. A legal description of the property;
  - d. Location of the property;
  - e. Instructions for obtaining further information regarding the request; and
  - f. The applicant's name.

(Ord. No. 97-18, § 2, 12-18-97; Ord. No. 99-25, § 2, 11-18-99; Ord. No. 99-26, § 2, 11-18-99; Ord. No. 00-38, § 2, 11-2-00)

<a href="#">LDC 22-1113</a>	<a href="#">Division Director</a> <a href="#">Sign-off</a>	
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