ORDINANCE 2016-25

AN ORDINANCE OF THE TOWN OF CUMBERLAND
AMENDING THE CUMBERLAND ZONING ORDINANCE FOR SIGNAGE IN THE
NATIONAL ROAD OVERLAY, FILING DEADLINES IN ARTICLE 4 (APPLICATIONS
& HEARINGS) AND ARTICLE 5 (IMPROVEMENT LOCATION PERMITS,
CERTIFICATES OF OCCUPANCY & INTERPRETATIONS)

WHEREAS, the Town Council of the Town of Cumberland, Indiana has adopted
a Zoning Ordinance for the Town that includes regulations for fencing; and

WHEREAS, from time to time this ordinance needs to be amended;

WHEREAS, Town staff identified a need to update sections dealing with signage
and filing deadlines; and

WHEREAS, on October 26, 2016, the Cumberland Plan Commission conducted
a public hearing on the proposed amendments; and

WHEREAS, in considering this proposal, the Cumberland Plan Commission has
paid reasonable regard to the comprehensive plan, current conditions and the character
of current structures and uses in each district, the most desirable use for with the land in
each district is adapted, the conservation of property values throughout the jurisdiction,
responsible development and growth, and has certified the proposal with a favorable
recommendation to the Cumberland Town Council for the amendments to the Zoning
Ordinance; and

WHEREAS, the Cumberland Town Council has reviewed and considered the
Plan Commission’s recommendation and has decided to adopt these amendments.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE
TOWN OF CUMBERLAND, INDIANA AS FOLLOWS:

Section 1. The amendments to the Zoning Ordinance attached as Exhibit A are
adopted and replace the previous sections.

Section 2. This ordinance shall be effective immediately upon its adoption.

This ordinance is hereby passed and adopted this ___ day of November, 2016.
TOWN COUNCIL OF CUMBERLAND, INDIANA

Joe Siefker, President

Anna Pea, Vice President

Nicole Bell, Member

Brian Gritter, Member

Mark Reynolds, Member

ATTEST:

Erica Salmon, Clerk-Treasurer

Ordinance 2016-25
MEMORANDUM

TO: APRIL FISHER, TOWN MANAGER
CUMBERLAND TOWN COUNCIL

FROM: CUMBERLAND ADVISORY PLAN COMMISSION

DATE: NOVEMBER 4, 2016

RE: ZONING TEXT AMENDMENT CASE # ZA 16-02

The Cumberland Plan Commission certifies to you the following report on the Zoning Ordinance Amendment (ZA 16-012) initiated by Town of Cumberland staff.

Staff is requesting various technical amendments to the Zoning Ordinance addressing signage in the National Road Overlay, improvement location permits, rezoning cases and development plans.

The Plan Commission held a public hearing for the amendment at their regular meeting on Wednesday, October 26, 2016. The Plan Commission's recommendation to the Cumberland Town Council is favorable by a vote of 4 to 0. The Plan Commission's Findings of Fact are attached.

Cumberland Plan Commission
Town of Cumberland, Indiana

By:
Belinda Heller, President

Christine Owens, Secretary

CJO
Enclosures
CASE NUMBER: ZA 16-02
CASE NAME: Various Technical Amendments

1. The amendment pays reasonable regard to the intent of the Comprehensive Plan.

2. The amendment pays reasonable regard to the character of current structures and uses in each district.

3. The amendment pays reasonable regard to the most desirable use for which the land in each district is adapted.

4. The amendment pays reasonable regard to the conservation of property values throughout the jurisdiction.

5. The amendment pays reasonable regard to responsible development and growth.

DECISION

It is therefore the decision of the Cumberland Advisory Plan Commission that zoning petition ZA 16-02 be sent to the Cumberland Town Council with a favorable recommendation.

ADOPTED THIS 26th DAY OF OCTOBER 2016.

[Signatures]

PRESIDENT

SECRETARY

THIS INSTRUMENT WAS PREPARED ON NOVEMBER 4, 2016 BY:

[Direcctor's Signature]

DIRECTOR OF PLANNING & DEVELOPMENT,
TOWN OF CUMBERLAND
Staff Report

DEPARTMENT OF PLANNING AND DEVELOPMENT
Town of Cumberland, Indiana
11501 E. Washington St.
Cumberland, IN 46229

Case Number: ZA 16-02
Case Name: Various Technical Amendments
Report Date: October 21, 2016

GENERAL INFORMATION AND CASE DESCRIPTION

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<tr>
<th>Case Type</th>
<th>Zoning Amendment</th>
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<tr>
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<tr>
<td>Owner</td>
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<td>Comprehensive Plan</td>
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STAFF COMMENTS

Staff has been working with the Plan Commission to amend the signage section of the National Road Overlay and the time limits for reviewing and approving building permits, rezoning cases, and development plans. The signage changes are to be consistent with those that were made earlier in the year to the sign ordinance. The timing allows for building permits to be reviewed within 30 days in lieu of 15 days and for zoning and development plans it extends the process to 45 days from 30 days. This allows more time to review applications. When multiple are coming in, it is almost impossible to review the plans within the current time restraints.

STAFF RECOMMENDATION

The Plan Commission Staff recommends approval of ZA 16-01, Various Technical Amendments.

Submitted By:

Christine Owens
Director of Planning and Development
Town of Cumberland
A. General Standards

General Standards: All development within the National Road Overlay District shall meet the following requirements. When the National Road Overlay and Article 18 of the Zoning Ordinance conflict, the National Road Overlay shall take precedence. Any sign regulations not specifically discussed in the National Road Overlay shall comply with the standard found in Article 18, Signs, of the Zoning Ordinance.

1. Prohibited Signs: The following types of signs shall be prohibited within the National Road Overlay District:
   a. Pole Signs;
   b. Pylon Signs;
   c. Portable Signs;
   d. Public Service message Signs;
   e. Pennants or other similar signs;
   f. Electronic variable message signs; and
   g. Any other sign not specifically permitted by this ordinance

2. Setbacks: All signs shall be set back a minimum of 10 feet from the property line.

3. Design:
   a. Architecture: All signs shall be architecturally integrated with their surroundings in terms of size, shape, color, texture, and lighting so that they are complementary to the overall design of the development with which they are associated.
   b. Materials: All signs shall be constructed of materials that match or are compatible with the principal materials of the structures and landscaping on the property.
   c. Landscaping: A landscaped area shall be provided around the entire base of all freestanding signs. This landscaped area shall be 1 square foot in area for every 1 square foot of sign face area.

4. Illumination:
   a. Externally Illuminated Signs: External illumination of signs shall meet the following standards:
      i. Lighting fixtures illuminating signs shall be located, aimed, and shielded so that light is directed only onto the sign face.
      ii. Lighting fixtures shall not be aimed toward adjacent street, roads, or properties, and shall be shielded such that the light source (bulb) is not visible from adjacent streets, roads, or properties.
   b. Internally Illuminated Signs: Internally illuminated signs shall be composed of individual letters or shapes, or light lettering, symbols, etc., on a dark background.
   c. Time Limit: All illuminated signs shall only be illuminated when the business being identified is open for business.
B. Non Residential Standards

Non-residential Standards: In addition to the general requirements of this section, all non-residential development within the National Road Overlay District shall meet the following sign requirements:

1. Permitted Signs: The following types of signs are permitted for non-residential uses:
   a. Ground Signs
   b. Building Signs

2. Ground Signs: Non-residential uses shall be subject to the following standards for ground signs:
   a. Individual Businesses: Individual businesses shall be permitted ground signs subject to the following standards:
      i. Number: Each individual business use shall be allowed 1 ground sign. When an individual business is part of an integrated center, it shall not be permitted a separate individual ground sign.
      ii. Height: Signs shall not exceed 6 feet in height.
      iii. Area: Signs shall not exceed 48 square feet in area.
   b. Integrated Centers: Integrated centers shall be permitted ground signs subject to the following standards:
      i. Number: Each integrated center shall be allowed 1 ground sign. Such sign shall be shared by all businesses that are part of the integrated center.
      ii. Height: Signs shall not exceed 25 feet in height.
      iii. Area: signs shall not exceed 300 square feet in area.

This graphic illustrates a typical individual business ground sign, including a variety of landscaping surrounding its base. The illumination is shielded and directed downward to the sign face, adjacent areas from light spillage.
3. **Building Signs:** Non-residential uses shall be subject to the following standards for building signs:
   a. **Sign Types:** Permitted building signs shall consist of the following:
      i. Wall Signs
      ii. Projecting signs
   b. **Number:** Non-residential uses shall be permitted 1 building sign on each building face that contains a customer entrance.
   c. **Area:** Non-residential uses shall be permitted 1 square foot of building sign area per 1 linear foot of building face with a customer entrance.
   d. **Wall Signs:** Wall signs shall be constructed to the following standards:
      i. Wall signs shall not project more than 12 inches from the wall surface upon which they are mounted.
      ii. Wall signs shall not cover more than 10% of any façade wall.
   e. **Projecting Signs:** Projecting signs shall be constructed to the following standards:
      i. Projecting signs shall not project more than 30 inches from the wall surface upon which they are mounted.
      ii. Projecting signs shall be mounted on buildings such that the bottom edge of the sign is at a height of at least 9 feet.

A. **Window Signs:** Non-residential uses shall be allowed one window sign, with the total area of such sign not to exceed 10% of the window surface area. A series of windows that are separated by frames and supporting material of less than 6 inches in width shall be considered a single window for the purpose of area measurement. Such signs shall not be illuminated. Window signs shall be included.
in the total building sign area allotment as calculated under Section B5(B)(3)(c). One small illuminated neon sign with the letters "OPEN" is allowed per business establishment. The neon sign shall not be larger than 12" on each side.

5. Directional Signs: Non-residential uses shall be permitted directional signs to direct traffic within a site provided such signs do not exceed 2 feet in height and 3 square feet in area for each sign. All directional signs shall be used for directional indications and address identification purposes only, and shall not be used for business advertising purposes.

5. Temporary Signs: One banner will be permitted for no more than 30 days per calendar year for advertising special events, closing sales, grand opening, and other special advertising activities. The temporary sign area is limited to 32 square feet and must not be in the required front setback or in the clear sight triangle.

C. Residential Standards

Residential Standards: In addition to the general requirements of this section, all single-family and multi-family residential development within the National Road Overlay District shall meet the following sign requirements:

1. **Number:** Each single-family or multi-family residential development shall be allowed 1 ground sign per development entrance.
2. **Height:** Signs shall not exceed 6 feet in height.
3. **Area:** Signs shall not exceed 20 square feet in area, the supporting structure of which shall not exceed 100 square feet on any one elevation.

Directional signs, such as the one shown in this photo, are permitted for non-residential uses.
ARTICLE 4 APPLICATIONS AND HEARINGS

00-15-153-04.1 Applications
00-15-153-04.2 Successive Applications
00-15-153-04.3 Notice
00-15-153-04.4 Review and Hearings

00-15-153-04.1 Applications

All applications or petitions for development review, which shall include site plan review, zoning certificates, special exception permits, planned unit developments, variances, amendments to the zoning ordinance text or zoning map, administrative interpretations, and appeals from administrative determinations, shall be filed in conformance with the regulations set forth below.

1. Place of Filing

Applications and petitions shall be filed with the Zoning Administrator, through the Town Clerk-Treasurer’s Office, or with such other Town body or official as the Zoning Administrator may designate.

2. Form, Number, and Scale

Applications and petitions shall be on forms provided by the Zoning Administrator and shall be filed in such number and manner as the Zoning Administrator may designate. All plans filed as part of any application or petition shall be at a scale sufficient to permit a clear and precise understanding of its contents and of the proposal being made. All plans filed shall be 8-1/2 inches by 11 inches or be folded to a size of 8-1/2 inches by 11 inches.

3. Minimum Requirements

Applications or petitions submitted pursuant to this Ordinance shall contain such minimum data and information as required by the Zoning Administrator. Applications that are incomplete shall not be processed by the Zoning Administrator and shall be returned to the applicant at the applicant’s expense.

4. Filing Deadlines

A. An application or petition requiring a public hearing will not be scheduled for such hearing unless filed in a complete manner, and no more than ninety (90) days prior to the requested public hearing date. An application so filed will be scheduled for the date requested, or the first available date thereafter, on a first-filed-first-scheduled basis. All public hearings to consider applications or petitions filed pursuant to this Ordinance shall be, unless otherwise provided by order of the relevant body, scheduled at the same time as the regular meetings of such body.

B. An application or petition that does not require a public hearing also shall be filed with the Zoning Administrator in a complete manner. The Zoning Administrator shall process an application or petition so filed on a first-filed-first-processed basis.

C. Whenever supplemental data in connection with a previously filed application or petition is required by the Town or offered by the applicant, it shall be submitted at least ten (10) days prior to the date on which the application or petition is to be considered or acted upon.
filing of such data shall, in the discretion of the Zoning Administrator, be cause to delay a requested or scheduled hearing or decision date.

5. Fees

Every application or petition filed pursuant to this Ordinance shall be subject to an application and filing fee as established, from time to time, by the Town Council. The owner of the property subject to the application or petition and, if different, the applicant or petitioner, shall be jointly and severally liable for the payment of the fee. The failure to pay any such fee when due shall be grounds for refusing to process an application or petition and for denying or revoking any permit or approval sought or issued with respect to the land or development to which the unpaid fee or required deposit relates.

6. Special Requests

The Zoning Administrator or any official, board or, commission before which an application or petition is pending may require an applicant or petitioner to submit additional data, information, or documentation if necessary or appropriate to achieve a full and proper consideration and disposition of the particular application or petition.

00-15-153-04.2 Successive Applications

1. Second Applications without New Grounds Barred

When an application or petition filed pursuant to this Ordinance has been denied on its merits, a second application or petition seeking essentially the same relief shall not be permitted. However, if in the opinion of the Zoning Administrator there is substantial new evidence available, or a mistake of law or fact occurred that significantly affected the prior decision of denial, such second application or petition may be allowed.

2. New Grounds to Be Stated

Any such second application shall include a detailed statement of the grounds justifying its consideration.

3. Summary Denial With or Without Hearing

The Zoning Administrator may summarily deny, without hearing, any such second application or petition on a finding that no grounds warrant a new hearing. In any case where such application or petition is set for hearing, the applicant shall be required to establish grounds warranting reconsideration of the merits of its application prior to being allowed to offer any evidence on the merits. Unless such grounds are established, the application may be summarily dismissed for such failure.

4. Exception

Whether or not new grounds are stated, any second application or petition filed more than one year after the denial of a prior application shall be heard on the merits as though no prior application had been filed. The applicant or petitioner shall, however, be required to place in the record all evidence available concerning changes of conditions or new facts that have developed since the denial of the first application or petition. In the absence of such evidence, it shall be presumed that no new facts exist to support the new application or petition that did not exist at the time of the denial of the first application or petition.
00-15-153-04.3 Notice

1. Notice of Public Hearing
   For any review procedure that requires a public hearing, the Town shall arrange for the publication of notice in conformance with Indiana Code 5-3-1 et. seq., and the rules of the particular municipal body, board, or commission. The applicant or petitioner shall bear the expenses for the advertising costs.

2. Notice of Public Hearing through Posted Sign
   In addition to the notice required by Indiana Code 5-3-1 et. seq., the Zoning Administrator shall cause a sign to be posted on the affected property not less than ten (10) days prior to the hearing. The sign shall state the date that a hearing will be held, including its time and place and a description of the matter to be heard.

   A. In addition to the other notice provided, the applicant or petitioner shall provide notice to interested parties at least ten (10) days before the date set for the hearing. Such interested parties shall receive written notice by certified mail, at the applicant’s expense. Proof of such notice by Affidavit shall be required.

   B. In accordance with its rules, the Plan Commission or the Board of Zoning Appeals as the case may be, shall determine who are interested parties. Notwithstanding the forgoing, if the subject matter of the proposal abuts or includes a county line or a county line street, road, or body of water, then all owners of real property to a depth of two (2) ownerships or one-eighth (1/8) of a mile into the adjacent county, whichever is less, are interested parties who must receive notice.

00-15-153-04.4 Review and Hearings

1. Staff Review
   The Zoning Administrator shall refer every application or petition for which this Ordinance requires a public hearing to the appropriate Town official, departments and committees. Each official, department and committee to which an application or petition is referred shall review such application and submit its comments thereon to the Zoning Administrator for transmittal to the specific official or body hearing the application or petition. Such comments shall, whenever possible, be submitted at least ten (10) days prior to the date set for the hearing and shall be made available to any person on request prior to the hearing.

2. Public Hearing
   The provisions of this Ordinance and the rules promulgated by the body or official conducting the hearing shall govern all other matters pertaining to the conduct of the particular hearing.
3. Examination and Copying of Application and Other Documents

At any time following the giving of notice as required in Section 4-3, and upon reasonable request, any person may examine the application or petition and, subject to the exceptions set forth in the Freedom of Information Act, all other documents on file pertaining to the application. In addition, any person shall be entitled to copies of such application and documents upon reasonable request and payment of a fee as established, from time to time, by the Zoning Administrator to cover the cost of such copies.
ARTICLE 5. IMPROVEMENT LOCATION PERMITS, CERTIFICATES OF OCCUPANCY AND INTERPRETATIONS

00-15-153-05.1 Improvement Location Permits

No building or other structure shall be erected, moved, added to, or structurally altered; nor shall any building, structure, or land be established or changed in use without an Improvement Location Permit issued by the Zoning Administrator. An improvement location permit shall be issued only in conformity with the provisions of the Zoning Ordinance, or upon written order from the Board of Zoning Appeals deciding an appeal, special exception, or variance.

1. Application for Improvement Location Permit

Applications for an Improvement Location Permit shall be filed in accordance with the requirements of Article 4 (Applications & Hearings) of this Ordinance.

A. An application for an Improvement Location Permit shall be signed by the owner or agent attesting to the truth and accuracy of all information supplied in the application.

B. Each application shall clearly state that the permit shall expire and may be revoked if work has not begun within one (1) year, or has not been completed within two (2) years.

C. At a minimum, an application for an Improvement Location Permit shall contain the information, plans, and data set forth in Section 4-5-5 of this Article.

D. An application for an Improvement Location Permit for an industrial use shall be accompanied by a “Certificate of Compliance” subscribed by a registered professional engineer or architect, certifying that the intended use will satisfy the requirements of this Article, the development standards within the particular zoning district, and the provisions of the Zoning Ordinance.

2. Action by the Zoning Administrator

Within 30 days after the receipt of a complete application, or within such later time as the applicant may agree, the Zoning Administrator shall either approve or disapprove the application. One set of the plans shall be returned to applicant by the Zoning Administrator and be marked either “approved” or “disapproved”, and the Zoning Administrator’s signature on the copy should attest. If the application is approved, the Zoning Administrator shall issue a placard to the applicant. The placard is to be posted in a conspicuous place on the property in question and will attest to the fact that the plans for construction or alteration are in compliance with the provisions of the Zoning Ordinance. If disapproved, the Zoning Administrator shall notify the applicant indicating the reasons in writing for the disapproval within five (5) days of his decision.

3. Expiration of the Improvement Location Permit

TOWN OF CUMBERLAND 48. Revised – September 2013
The work or use authorized by any improvement location permit must be commenced within twelve (12) months of the date of issuance of such permit; otherwise the same shall expire and become void. All work so authorized shall be completed within twenty-four (24) months from the issuance of the permit, except provided that for good cause shown the Zoning Administrator may extend the work completion time.

4. Failure to Obtain an Improvement Location Permit
   The failure to obtain an improvement location permit as required by this Article shall be deemed a violation of the Zoning Ordinance and subject to the provisions of Article 20 (Enforcement).

5. Limitation on Improvement Location Permits
   Improvement location permits, issued on the basis of plans and applications approved by the Zoning Administrator, authorize only the use or arrangement set forth in such approved application or amendments thereto, and no other use, arrangements, or construction. Any use, arrangement, or construction contrary to that authorized shall be deemed a violation of this ordinance and subject to the provisions of Article 20, (Enforcement).

6. Records of Improvement Location Permits
   Every improvement location permit issued pursuant to this Article shall be kept on file in the Office of the Director of Building and Planning Services and shall be available as a public record.

00-15-153-05.2  Certificates of Occupancy
   It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of occupancy shall have been issued by the Zoning Administrator. The certificate of occupancy shall state that the proposed use of the building and/or land conforms to the requirements of the Zoning Ordinance and that the Zoning Administrator has inspected the property and attested to that fact.

   1. This Section is not intended to prevent a single family homeowner undergoing a single room addition to move or store personal property items in the addition prior to the issuance of the certificate of occupancy, provided however, the addition is not used or occupied as a livable space until the certificate of occupancy is issued.

00-15-153-05.3  Application for Certificates of Occupancy
   Applications for a Certificate of Occupancy shall be filed with the Zoning Administrator at least ten (10) days prior to completion of the improvements to any building or premises. The application shall be in accordance with the requirements of Article 4 (Applications & Hearings) of this Ordinance.
1. **Change in Use**

No change shall be made in the use of land or the use of any building or part thereof, now or hereafter erected, reconstructed, or structurally altered, without a Certificate of Occupancy having been issued by the Zoning Administrator. Any such change shall be made in conformity with the provisions of the Zoning Ordinance.

2. **Change of Occupancy**

No persons, firms, or corporations shall move into or occupy any nonresidential structure or land, new or existing, without first obtaining a Certificate of Occupancy from the Zoning Administrator.

00-15-153-05.4 **Issuance of Certificate of Occupancy**

Certificates of Occupancy may be issued by the Zoning Administrator within ten (10) days after notification by the applicant that the lawful erection, reconstruction, or structural alteration of such building or other improvement of the land shall have been completed and the finding of the Zoning Administrator that such erection, reconstruction, or structural alteration is complete.

1. **Temporary Certificate of Occupancy**

A Temporary Certificate of Occupancy may be issued by the Zoning Administrator for a period of six (6) months during alterations or partial occupancy of a building or structure pending its completion. A temporary Certificate of Occupancy may be renewed by the Zoning Administrator for a period not to exceed six (6) months, however no Temporary Certificate of Occupancy shall be valid longer than twelve (12) months.

2. **Limitation on Improvement Location Permits**

Certificate of Occupancy permits issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use or arrangement set forth in such approved application or amendments thereto, and no other use, arrangements, or construction. Any use, arrangement, or construction contrary to that authorized shall be deemed a violation of this ordinance and subject to the provisions of Article 20 (Enforcement).

3. **Records of Certificate of Occupancy**

Every Certificate of Occupancy issued pursuant to this Section shall be kept on file in the Office of the Director of Building and Planning Services and shall be available as a public record.

4. **Failure to Obtain an Improvement Location Permit**

Failure to obtain an improvement location permit shall be a violation of the Zoning Ordinance and subject to the provisions of Article 20 (Enforcement).

00-15-153-05.5 **Submission Requirements for Improvement Location Permits and Certificates of Occupancy**

In addition to the requirements of Article 4 (Applications & Hearings), applications for Improvement Location Permits and Certificates of Occupancy shall include the following material.

1. A completed application containing the applicant's name, address, and proof of interest in the subject property, and the owner's name and address, if different than the applicant, and the owner's signed consent to the filing of the application.

   TOWN OF CUMBERLAND 50. Revised - September 2013
2. The street address and legal description of the property subject to the application.

3. The zoning classification and present land use of the subject property.

4. Three (3) copies of detailed site plan prepared by a professional engineer, architect or surveyor under and bearing a professional seal and depicting the following elements:

   A. General vicinity map;
   B. Property boundary lines including any easements and all adjacent streets;
   C. Elevation marks and contours;
   D. Traffic and circulation plan and a pedestrian circulation plan;
   E. Parking and loading plan, including refuse and trash storage areas;
   F. Landscaping plan, indicating plant types, numbers, location, size, and method of installation
      and an open space plan;
   G. Grading and surface drainage plan in accordance with the Subdivision Control Ordinance;
   H. Utilities plan (existing and proposed) showing location and size, signage plan showing
      location and size, and lighting plan showing location and size;
   I. Proposed improvements showing location, dimensions and configuration of existing and
      proposed buildings, structures, and uses;
   J. Floor plans, building plans and elevations of all structures; and
   K. Development summary indicating lot area, building square footage, lot coverage building
      height, number and size of dwelling units and structures, and the number of parking spaces
      provided.

5. Such other and further information or documentation as the Zoning Administrator may deem to
   be necessary or appropriate for a full and proper consideration and deposition of the particular
   application.

00-15-153-05.6 Administrative Interpretations

The interpretation authority established herein is intended to recognize that the provisions of the Zoning
Ordinance, though detailed and extensive, cannot, as a practical matter, address every specific situation to
which they may have to be applied. Many such situations can be readily addressed by an interpretation of
the specific provisions of the Zoning Ordinance in light of the general and specific purposes for which
those provisions have been enacted. Because the interpretation authority established is an administrative
rather than a legislative authority, it is not intended to add to or change the essential content of the Zoning
Ordinance but is intended only to allow authoritative application of that content to specific cases.

1. Authority

   The Zoning Administrator, subject to the procedures, standards, and limitations of this Section
   may, by written order, render interpretations of the provisions of this Ordinance and of any rule or
   regulation issued pursuant to it.
2. **Parties Entitled to Seek Interpretations**

The owner or lessee of a property or other person having a legal or equitable interest in the subject property may file with the Zoning Administrator an application for interpretation. Application for interpretations shall not be accepted for solely hypothetical circumstances or where the interpretation would have no affect other than as an advisory opinion.

3. **Procedure for Review and Decision**

   A. **Application**

      Applications for an interpretation shall be filed in accordance with the requirements of Article 4 (Applications & Hearings).

   B. **Action on Application**

      Within ten (10) business days following the receipt of a properly completed application for interpretation, the Zoning Administrator shall inform the applicant in writing of his interpretation, stating the specific precedent, reasons, and analysis upon which the determination is based.

   C. **Records**

      A record of all applications for interpretations shall be kept on file in the Office of the Director of Building and Planning Services. At least once a year, the Zoning Administrator shall make public a listing of his decisions, by address, regarding the applications for interpretation.

   D. **Appeal**

      Appeals from interpretations rendered by the Zoning Administrator may be taken to the Board of Zoning Appeals pursuant to Section 4-20-9 of the Zoning Ordinance.

4. **Standards for Interpretations**

   The following standards shall govern the Zoning Administrator, and the Board of Zoning Appeals on appeals from the Zoning Administrator, in issuing interpretations.

   A. Any term defined in Article 3 (Definitions) of the Zoning Ordinance shall be interpreted as therein defined;

   B. No interpretation shall permit any use in any zoning district unless evidence shall be presented that demonstrates that the use will comply with the general district regulations established for that particular zoning district;

   C. No interpretation shall permit any use in a particular zoning district unless such use is determined to be substantially similar to other uses permitted in the particular zoning district;

   D. Where a proposed use is most similar to a use permitted only as a special exception, then any interpretation permitting such use shall be conditioned on the issuance of a special exception permit for such use pursuant to Article 10 of the Zoning Ordinance; and

   E. No interpretation shall permit the establishment of any use that would be inconsistent with the statement of purpose of the zoning district in question.

5. **Effect of Favorable Interpretations**

   No interpretation finding a particular use to be permitted or permitted as a special exception shall authorize the establishment of such use nor the development, construction, reconstruction,
alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any permits and approvals that may be required by this Ordinance and ordinances of the Town.

6. Limitations on Interpretations

Subject to an extension of time granted by the Zoning Administrator, no use interpretation shall be valid for a period longer than twelve (12) months from the date of issue. A use interpretation finding a use to be either permitted or a special exception shall apply only to the particular use for which it was issued.

7. Submission Requirements for Administrative Interpretations

In addition to the requirements of Article 4 (Applications & Hearings), applications for Administrative Interpretations shall include the following material.

A. A completed application containing the applicant’s name, address, and proof of interest in the subject property, and the owner’s name and address, if different than the applicant, and the owner’s signed consent to the filing of the application.
B. The specific provision or provisions of the Zoning Ordinance for which the interpretation is being sought.
C. The facts and the specific situation giving rise to the request for interpretation.
D. The precise interpretation claimed by the applicant to be correct.
E. When a use interpretation is sought:

(a) The use permitted pursuant to the present zoning classification of the subject property that is claimed by the applicant to include, or to be most similar to, the proposed use.
(b) A statement containing all the circumstances, factors, and arguments that the applicant offers in support of the proposed use interpretation, including an explanation of how the petition satisfies each of the standards for interpretations set forth herein; and
(c) Such other and further information or documentation as the Zoning Administrator may deem to be necessary or appropriate for a full and proper consideration and deposition of the particular application.