

Article III. PERMITS AND PROCEDURES

Section 3.1 Purpose

In order to establish an orderly process to develop land within the jurisdiction of Jackson County, it is the purpose of this section to provide a clear and comprehensible development process.

Section 3.2 General Provisions and Applicability

(a) The provisions of this article shall be applicable to all development activity under the jurisdiction of Jackson County.

TABLE 3.1: Development Review Procedures identifies the procedures for several processes and permits for Jackson County, the Planning Councils, and several Boards and Commissions for designated development on lands in the County and for the Regulated Districts of the Cashiers Commercial Area, the Cullowhee Community Planning Area, and the US 441 Gateway District.

(a) **Authority and Jurisdiction**

(i) This article, enacted in accordance with the provisions of NCGS 160D shall apply to all of Jackson County not within the jurisdictions of the various municipalities and the Qualla Boundary.

Development Permit/Process	Process Type	Review/ Recommendation	Decision/Final Action	Appeal	Public Notice Required (Sec 3.5)	Reference
Administrative Adjustment	Administrative	Planning Director ¹	Planning Director	Board of Adjustment ²	N/A	Sec. 3.7.1
Administrative Appeal	Quasi-Judicial	Planning Director	Board of Adjustment	Superior Court	1 & 2	Sec. 3.7.2
Administrative Appeal (Regulated District incl Airport)	Quasi-Judicial	Planning Director	Community Planning Council	Superior Court	1 & 2	Sec. 3.7.2 (c)
Administrative Review	Administrative	Planning Director	Planning Director	Board of Adjustment	N/A	Sec. 3.7.3
Certificate of Appropriateness	Quasi-Judicial	Planning Director	Historic Preservation Committee	Board of Adjustment	1, 2, & 3	Sec. 3.6
Certificate of Occupancy	Administrative	Planning Director/Permitting & Code Enforcement Director ³	Planning Director/Permitting & Code Enforcement Director	Board of Adjustment	N/A	N/A
Design Review - Regulated Districts	Administrative/Quasi-Judicial ⁴	Planning Director	Community Planning Council ⁵	Community Planning Council ⁶	N/A	Sec. 3.7.4

Erosion and Sedimentation Control Plan	Administrative	Permitting & Code Enforcement Director	Permitting & Code Enforcement Director	Sediment & Erosion Control Appeals Board	N/A	Sec. 3.7.5
Development Permit/Process	Process Type	Review/ Recommendation	Decision/ Final Action	Appeal	Public Notice Required (Sec. 3.5)	Referen ce
Floodplain Development Permit	Administrative	Floodplain Administrator ⁷	Floodplain Administrator	Board of Adjustment	N/A	Sec. 3.7.6
Floodplain Variance	Quasi-Judicial	Floodplain Administrator	Board of Adjustment	Superior Court	1	Sec 3.7.20
Impervious Surface Area Modifications – Water Recharge	Legislative	Planning Director	Planning Board	Board of Adjustment	1	Sec. 3.4 Sec. 5.5
Industrial Permit	Administrative	Planning Director	Planning Director	Board of Adjustment	N/A	Sec. 3.7.7
Land Development Compliance Permit	Administrative	Permitting & Code Enforcement Director	Permitting & Code Enforcement Director	Board of Adjustment	N/A	Sec. 3.7.8
Manufactured Home Park Construction Permit	Administrative	Permitting & Code Enforcement Director	Permitting & Code Enforcement Director	Board of Commissioners	N/A	Sec. 3.7.9
Map Amendment/Rezoning	Legislative	Planning Director	Board of Commissioners	Superior Court	1,2 & 3	Sec. 3.7.12
Mountain & Hillside Development Permit	Administrative	Planning Director	Planning Board	Board of Adjustment	N/A	Sec. 3.7.10 Sec. 5.8
Mountain Ridge Protection Permit	Legislative	Planning Board	Board of Commissioners	Superior Court	1 & 2	Sec. 3.7.11 Sec. 5.7
Sign Permit	Administrative	Planning Director	Planning Director	Board of Adjustment	N/A	Sec. 3.7.13
Site Development Plan Permit (Regulated Districts)	Administrative	Planning Director	Planning Director	Board of Adjustment	N/A	Sec. 3.7.14
Special Use Permit	Quasi-Judicial	Planning Director	Multiple Boards and Entities ⁸	Superior Court	1, 2 & 3	Sec. 3.7.15
Stormwater Permit - Regulated Districts	Administrative	Permitting & Code Enforcement Director	Planning Director	Planning Council	N/A	Sec. 3.4

Subdivision, Major-Level 1 Preliminary Plat	Legislative	Planning Director	Planning Director	Planning Board	1	Sec. 3.7.16
Subdivision, Major-Level 2 Preliminary Plat	Administrative	Planning Director	Planning Board	Board of Adjustment	1	Sec. 3.7.16
Subdivision, Major, Final Plat	Administrative	Planning Director	Planning Director	Board of Adjustment	N/A	Sec. 3.7.16
Subdivision, Minor Plat	Administrative	Planning Director	Planning Director	Board of Adjustment	N/A	Sec. 3.7.17
Development Permit/Process	Process Type	Review/ Recommendation	Decision/ Final Action	Appeal	Public Notice Required (Sec. 3.5)	Referen ce
Temporary Use Permit	Administrative	Planning Director	Planning Director, Planning Council	Community Planning Council	N/A	Sec. 3.7.18
Text Amendment	Legislative	Planning Director	Board of Commissioners	Superior Court	1 & 2	Sec. 3.7.19
Variance	Quasi-Judicial	Planning Director	Multiple Boards & Entities ⁸	Superior Court	1, 2 & 3	Sec. 3.7.20
Vested Rights	Administrative	Planning Director	Planning Director	Planning Board/ Superior Court	N/A	Sec. 1.14 Sec. 3.7.2
Wireless Communications Permit	Administrative Quasi-Judicial	Planning Director	Board of Commissioners Planning Director	Superior Court Board of Adjustment	1, 2 & 3	Sec. 3.7.15 Sec. 6.3
Zoning Permit - Regulated Districts	Administrative	Planning Director	Planning Director	Community Planning Council	N/A	Sec. 3.7.21

1. Planning Director and/or his/her designee.
2. For the purposes of this article, Board of Adjustment may mean any appeal body (Planning Council, etc.) other than the Superior Court.
3. Permitting & Code Enforcement Director and/or his/her designee.
4. If a Special Use Permit is required, the Design Review Committee makes findings of facts regarding the design standards.
5. The Community Planning Council serves as the Design Review Committee for all regulated districts.
6. The Planning Council is authorized by the Board of Commissioners to make final decision per Section 2.2(b).
7. The Permitting & Code Enforcement Director is also designated as the Floodplain Administrator.
8. Variances may be heard by Board of Adjustment, Planning Board, Regulated District Community Planning Councils, Watershed Review Board, Sediment Control Appeals Board.

Section 3.3 Public Meetings

All meetings of elected or appointed bodies under this Ordinance shall be open to the public in accordance with NCGS 143-318.12 and shall be conducted in accordance with the procedures set forth in these regulations and rules of procedure adopted by the respective bodies and approved by the Board of Commissioners.

Section 3.4 Common Review Procedures

(a) Overview

Section 3.7.14 Site Development Plan (Regulated Districts)

(a) Purpose and Intent

- (i) It is the purpose of this section to establish a procedure which will enable the County to consider site plan applications for improvements to land within the County's Regulated Districts.

(b) Applicability

- (i) Site development plan review is applicable to any development activity or subdivision of land within any regulated district. See also Article IX: Regulated Districts for individual district standards and requirements.
- (ii) Cashiers Commercial Area Regulated District requires a Special Use Permit for all development. See also Section 3.7.15 below.

(c) Site Development Plan Procedure

(i) Pre-Application Conference

- 1) It is recommended that a pre-application conference be scheduled with the Planning Director prior to application submittal. Preliminary plans may be shown at this conference in order to receive general guidance.

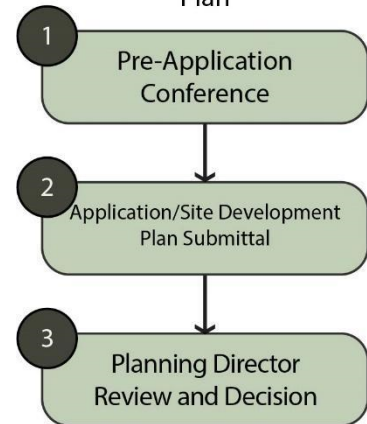
(ii) Application Submittal and Acceptance

- 1) Each application for a site development plan shall contain the information required on the application form. Staff Review and Decision
- 2) Following submittal of the application and site plan, they shall be reviewed by the staff of the Jackson County Planning Department for compliance. The Planning Department staff may request input from other local, regional, and/or state agencies to assist in the thorough review of the site construction plan.
- 3) The Planning Director shall approve the site development plan if staff finds the application and site plan in compliance with the requirements of this Ordinance.

(d) Appeal

- (i) Reference Section 3.7.2, Administrative Appeals.

FIG 3.5 Site Development Plan



Section 3.7.15 Special Use Permit

(a) Purpose and Intent

- (i) The special use permit review process is established to provide for the adequate review and consideration of those uses which, because of their unique characteristics and impacts upon the community, require individual consideration of their location, design, configuration, and/or operation in the community. The individual consideration may also call for the imposition of individualized conditions in order to ensure that the use, ~~including Wireless Communication Facilities~~, is appropriate in the community. Any use identified as a special use in the Permitted Uses Section of the Regulated Districts in Article IX, shall not be permitted without the approval of the appropriate Community Planning Council in accordance with the requirements and procedures set forth in that section.

(b) **Applicability**

- (i) Uses identified in the Table of Permitted Uses in the Regulated Districts, shall be approved as a special use in accordance with the procedures and standards of this section, prior to development. ~~This procedure shall also be followed for wireless telecommunications permits.~~

~~(c) **Wireless Telecommunications Permits**~~

- ~~(i) A wireless communication facilities permit shall be considered a special use permit and shall be subject to the review procedures mandated for such permits.~~

~~(d)~~(c) **Special Use Permit Procedure**

(i) Pre-Application Conference

- 1) Every applicant for a special use permit is required to meet with the Jackson County Planning Department in a pre-application conference prior to the submittal of a special use application. The purposes of the conference are to provide additional information regarding the review process and assistance in the preparation of the application.

(ii) Application Submittal and Acceptance

- 1) An application for a special use permit may be filed by the owner of the property or by an agent specifically authorized to submit the application. The application for a special use permit shall be filed with the Jackson County Planning Department on a form provided by the Planning Department or on the County Website.

- 2) Each application for a special use permit shall contain the information required on the application form. Staff Review and Recommendation

FIG 3.6 Special Use Permit

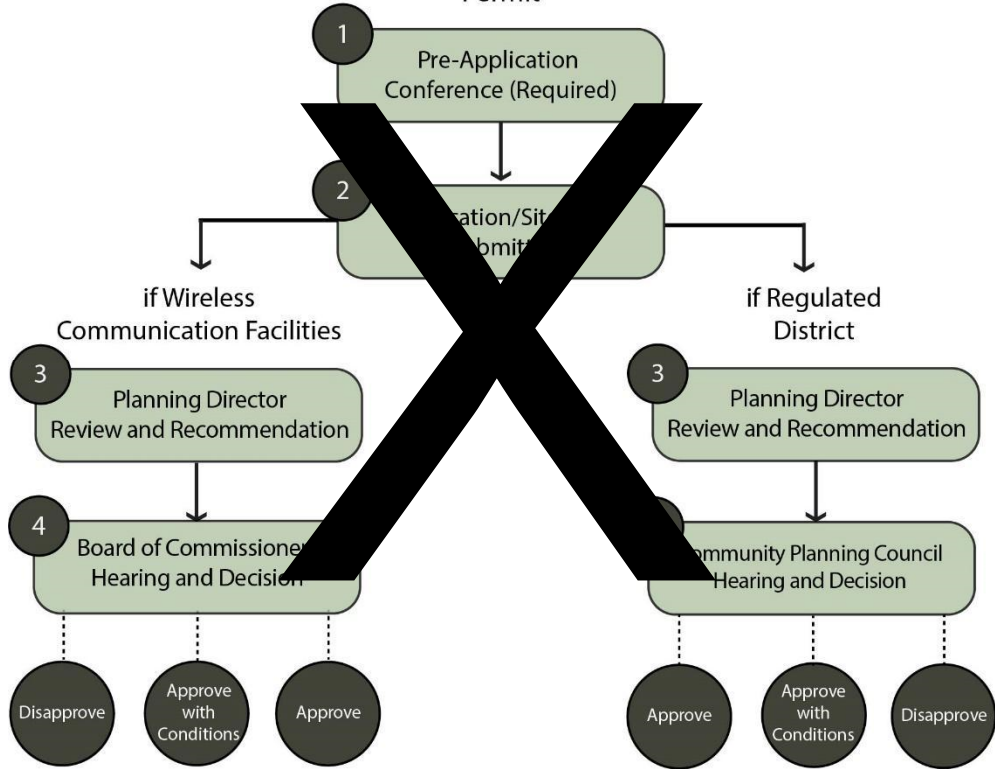


FIG 3.6 Special Use Permit



- 3) Following submittal of the application and site plan for the special use permit, they shall be reviewed by the staff of the Jackson County Planning Department for compliance with the requirements of this section. The Planning Director may request input from other local, regional, and/or state agencies, such as the Jackson County Health Department and the North Carolina Department of Transportation, to assist in the thorough review of the special use permit application and site plan. The Planning Director shall review the special use permit application and site plan within 15 working days of its submittal.
- 4) Upon review of an application and site plan for a special use permit, the Director will determine that the application is one of the following:

~~a) Complete. If the Planning Director finds the application and site plan to be in compliance with the requirements of this Ordinance, they shall forward their report and the special use permit application and site plan to the appropriate Community Planning Council for review and final action (Section 3.7.15 (v)), Community Planning Council Review and Decision). If the application is for a Wireless Communications facilities permit, the permit application shall be forwarded to the Board of Commissioners (Section 3.7.15 (vii)), Board of Commissioners Review and Decision).~~

~~b) a) Complete with Recommended Conditions. If the Planning Director has recommendations on the application, the recommendations shall be forwarded to the Community Council with the staff report, the special use permit application and site plan shall be forwarded to the Community Planning Council or Board of Commissioners for review and final action. Incomplete or Fails to meet ordinance standards. If the application is incomplete or fails to meet the ordinance standards, the Planning Director shall provide, in writing, the reasons for the determination to the applicant. The special use permit may be revised to address the deficiencies and resubmitted in accordance with the provisions of this ordinance. The decision of the Planning Director shall be considered final action on the request unless, within 30 days of receiving the written determination, the applicant provides a written request for review by the appropriate Community Planning Council or the Board of Commissioners.~~

(iii) Public Notification

- 1) Applicable (refer to Table 3.1: Development Review Procedures).

(iv) Community Planning Council Review and Decision (Regulated Districts)

- 1) The Community Planning Council shall consider the special use permit request, at a public hearing, within 35 days of receiving the recommendation regarding the special use permit application and site plan from the Jackson County Planning Director.
- 2) The Community Planning Council, after conducting the public hearing may, in accordance with Section 3.7.15 (vi), Special Use Review Standards, deny approval; table the request pending submittal of additional information; or approve the special use permit. The minutes of the Community Planning Council shall state whether the proposed special use does or does not meet each of the standards set forth in Section (vi) of this Ordinance and all other requirements set forth in this Ordinance for the proposed special use. The decision on the special use permit shall be by a simple majority vote of those members of the Community Planning Council present at the meeting at which the action is taken.
- 3) A Design Review Committee, as appointed by and composed of members of the applicable Community Planning Council, shall review all special use permit applications and site plans

for compliance with the design standards set forth in Section 3.7.4 of this Ordinance and in accordance with the special use review standards (vi) below.

(v) Special Use Permit Review Standards (Regulated Districts)

- 1) The Community Planning Council shall not approve the special use permit application and site plan unless and until it makes the following findings, based on the evidence and testimony presented at the public hearing or otherwise appearing in the record of the case:
 - a) That the proposed use or development of the land will not materially endanger the public health or safety.
 - b) That the proposed use or development of the land is reasonably compatible with significant natural and topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.
 - c) That the proposed use or development of the land will not substantially injure the value of adjoining or abutting properties.
 - d) That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the community.
 - e) That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.
 - f) That the proposed use will not cause undue traffic congestion or create a traffic hazard.

~~(vi) Board of Commissioners Review and Decision (Wireless Communication Facilities)~~

- ~~1) Quasi-judicial hearing. Upon receipt of a report from the Planning Department requesting a quasi-judicial hearing on the application for a wireless communication facility permit, a hearing shall be scheduled by the Jackson County Board of Commissioners on the application. Notice of all quasi-judicial hearings shall be in accordance with the North Carolina General Statutes. In addition, owners of all adjoining properties and all properties abutting any private road to be used to access the proposed site of the proposed facility shall be notified of the hearing by first class mail. Such notice shall be provided as required by law prior to the hearing. The quasi-judicial hearing on the application shall be scheduled by the Jackson County Board of Commissioners and shall meet all requirements for such a hearing.~~

~~(vii) Action by the Jackson County Board of Commissioners~~

- ~~1) Designation of approval body. The Jackson County Board of Commissioners is hereby designated as the approval body for wireless communication facilities permits required by this section and is granted all necessary authority to carry out this responsibility.~~
- ~~2) Review of the wireless communication facilities permit request. In order to preserve the integrity of the quasi-judicial hearing and at the same time comply with NCGS 160D-406, the Jackson County Board of Commissioners shall consider the wireless communication facilities permit request, at a quasi-judicial hearing.~~
- ~~3) Special use standards. The Jackson County Board of Commissioners shall not approve the wireless communication facilities permit application unless and until it finds that the application meets all requirements set forth in this section and makes the following findings,~~

~~based on the evidence and testimony presented at the public hearing or otherwise appearing in the record of the case:~~

- ~~a) That the proposed use or development of the land will not materially endanger the public health or safety.~~
- ~~b) That the proposed use or development of the land is reasonably compatible with significant natural and topographic features on the site and within the immediate vicinity of the site given the proposed facility, site and access road design and any mitigation techniques or measures proposed by the applicant.~~
- ~~c) That adjacent/adjoining property owners have not demonstrated that proposed use or development of the land will substantially injure the value of adjoining or abutting properties.~~
- ~~d) That the site can be accessed by service and emergency vehicles.~~
- ~~e) That the application, site and proposed improvements comply with all provisions of this Section.~~

~~(viii) Decision by the Jackson County Board of Commissioners. The Jackson County Board of Commissioners, after conducting the quasi-judicial hearing, may: deny approval; table the request pending submittal of additional information; or approve the wireless communications permit with or without additional conditions. The minutes of the Jackson County Board of Commissioners shall state whether the proposed use does or does not meet the requirements set forth in this Section for the proposed use, and if the permit request is approved, the findings required by this Section for such approval shall be stated within the minutes. The decision on the permit application shall be by a simple majority vote of those members of the Jackson County Board of Commissioners present at the meeting at which the action is taken. Any action taken by the Jackson County Board of Commissioners shall be given to applicant and property owner in writing within 30 days of the date the action is taken. If the application is denied, the Jackson County Board of Commissioners shall state the reason(s) for said denial in its notification to the applicant.~~

~~(*)~~(vi) _____ Transfer of approval

- 1) A special use permit approval may be transferred to a subsequent owner of the property for which the permit was issued but may not be transferred to another property.

~~(*)~~(vii) _____ Resubmission of denied applications

- 1) No application for approval of a special use permit shall be filed with or accepted by the Jackson County Planning Department that is identical or substantially similar to an application that has been denied by a Community Planning Council.

~~2) No application for approval of a wireless communication permit shall be filed with or accepted by the Planning Department that is identical or substantially similar to an application that has been denied by the Jackson County Board of Commissioners.~~

~~(*)~~(viii) _____ Project phasing

- 1) If a project approved as a special use is to be developed in phases, a master plan for the entire development must be approved by the Community Planning Council at the same time and in the same manner the special use permit application is considered. Final plans for phases of the special use may be submitted in stages and approved by the Jackson County Planning Department provided that the following requirements are met:
 - a) All phases must be shown with precise boundaries on the master plan and numbered in the expected order of development.
 - b) Each phase must be able to exist independently of subsequent phases by meeting all applicable standards as if the phase were a separate project.
 - c) All the data required for the project as a whole must be given for each phase shown on the plan.
 - d) A proportionate share of the common facilities must be included in each phase of the development.
 - e) The phasing must be consistent with the traffic circulation, drainage, and utilities plan for the entire master plan, with the infrastructure provided for the phase submitted for approval.
 - f) Each phase of the special use must comply with any and all conditions attached to the approval of the special use permit. No certificate of occupancy will be issued for the project phase until a site inspection has confirmed that all conditions and requirements are met.

~~(e)~~(d) **VariANCES**

- (i) Variances from the use standards established by this Ordinance for special uses shall not be permitted.

~~(f)~~(e) **Appeal**

- (i) An appeal from the decision of the Community Planning Council ~~or Board of Commissioners~~ regarding a special use permit application and site plan may be made by an aggrieved party and shall be made to the Superior Court of Jackson County in the nature of certiorari. Any petition to the Superior Court shall be filed with the Court no later than 30 days after a written copy of the decision of the Community Planning Council is received by the applicant.

~~(g)~~(f) **Expiration**

- (i) Approval of a special use permit shall be valid for two years from the date of approval by the Community Planning Council ~~or Board of Commissioners~~. Failure to obtain a building permit, or otherwise initiate the permitted use, within this time shall render the special use permit approval void. The Jackson County Planning Department may grant a single extension of this time period of up to six months upon submittal by the applicant of sufficient justification for the extension. Permits for the phased development of a special use project shall remain valid for the time approved by the Community Planning Council as part of the special use approval of the master plan for the special use.

Section 3.7.16 Subdivision, Major - Preliminary Plat