



Community Development and Planning
Lewis and Clark County

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STAFF REPORT

Date: July 14, 2020

To: Consolidated City and County Planning Board

From: Greg McNally, Planner III
Peter Italiano, Director

**RE: ADDITIONAL AMENDMENTS TO APRIL 14, 2020 DRAFT HELENA VALLEY PLANNING AREA
PART-2 ZONING REGULATIONS**

Applicant:

Lewis and Clark County

Planning Board Work Sessions

(ZOOM Only) Friday, July 17, 2020 at 2:00 p.m.

(ZOOM and at Helena Civic Center) Tuesday, July 21, 2020 at 6:00 p.m.

EXECUTIVE SUMMARY:

At the Consolidated City and County Planning Board's (Board) work session on June 25, 2020, Board members requested that Staff prepare additional amendments to the April 14, 2020 draft of the Helena Valley Planning Area Zoning Regulations for the Board to review at a work session to be held on July 21, 2020. Subsequent to that request, the Board Chair, Dr. Gregory Thomas, has called for another work session to be held on July 17, 2020 to preview Staff's prepared amendments.

Staff has prepared some additional amendments to the draft zoning regulations (Exhibit C to Resolution 2020-01) as discussed by the Board on June 25, 2020. These amendments are in addition to those provided to the Board for their June 16, 2020 meeting (Exhibit B to Resolution 2020-01)

ATTACHMENT:

Exhibit C (to Resolution 2020-01): Proposed Amendments to the April 14, 2020 DRAFT Helena Valley Zoning Regulations, July 14 2020

EXHIBIT C:
(to Resolution 2020-01)

July 14, 2020

**Proposed Amendments to the
April 14, 2020 DRAFT Helena Valley Zoning Regulations**

These proposed amendments were drafted in an attempt to address concerns raised during the Consolidated City and County Planning Board work session on June 25, 2020. The amendments are presented with a page number, and section number citation to facilitate review. Amendments to the April 14, 2020 DRAFT Helena Valley Zoning Regulations proposed by Community Development and Planning Staff (Staff) are in colored underlined text (underlined text), while proposed deletions are indicated with colored strikethrough text (~~strikethrough text~~).

Previously proposed Staff amendments (Exhibit B to Resolution 2020-01) are shown herein where similar sections are presented. Staff has added explanatory notes after most proposed changes or groups of changes indicated by bolded italic text in brackets [*italic text in brackets*].

Staff recommends that the proposed amendments be reviewed in consultation with the April 14, 2020 DRAFT Helena Valley Zoning Regulations which are available online at <https://www.lccountymt.gov/cdp/zoning.html>.

SECTION 3 DEFINITIONS

Page 3-5, April 14, 2020 DRAFT Helena Valley Zoning Regulations

~~Buffer (Waterbody): Buffers for waterbodies are not additional setback distances, but rather the portion of the setback that is designated to remain undisturbed. Buffers are areas where all natural vegetation, rocks, soil, and topography shall be maintained in their original state, or enhanced by the additional planting of native plants. Buffer distances are measured on a horizontal plane.~~

[STAFF NOTES ON PROPOSED CHANGES: Public comment received has indicated concern about the “Waterbody Setbacks” (Section 708.04) specific to existing development in two very different areas of the Helena Valley Planning Area (Rimini and Dana’s Point). After further consideration, Staff has recommended the waterbody setbacks and the definition of a waterbody buffer be removed from the draft zoning regulations. They will remain in full force and effect in the County’s Subdivision Regulations and will therefore still capture all new development as may be applicable. Similarly, the County’s Floodplain Regulations also remain in full force and effect (as they are a standalone set of regulations) and therefore any potential negative impact due to the removal of the waterbody setbacks will be de minimis.

After “Conservation Easement”, insert the following definition for Correctional Facility:

Correctional Facility: Includes County prisons and jails for the detention of persons awaiting trial or sentenced as punishment for criminal offenses, including youth detention facilities.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member to insert definition. On June 25, 2020, Planning Board Member clarified that the definition should include the word County so as not to refer to a private operation.]

~~Setback (Waterbody): The distance measured on a horizontal plane from the ordinary high-water mark within which the structures and uses listed below are not allowed.~~

- ~~1. Any type of structure related to residential, commercial, and industrial uses;~~
- ~~2. Manufactured and prefabricated structures;~~
- ~~3. Septic tanks and septic tank drainfields;~~
- ~~4. Barns, feed lots, and corrals;~~
- ~~5. Communication towers; and~~
- ~~6. Road, road rights-of-way and driveways that are within the setback and buffer area and are parallel to the watercourse.~~

[STAFF NOTES ON PROPOSED CHANGES: Public comment received has indicated concern about the “Waterbody Setbacks” (Section 708.04) specific to existing development in two very different areas of the Helena Valley Planning Area (Rimini and Dana’s Point). After further consideration, Staff has recommended the waterbody setbacks and the definition of a waterbody setback be removed from the draft zoning regulations. They will remain in full force and effect in the County’s Subdivision Regulations and will therefore still capture all new development as may be applicable. Similarly, the County’s Floodplain Regulations also remain in full force and effect (as they are a standalone set of regulations) and therefore any potential negative impact due to the removal of the waterbody setbacks will be de minimis.

SECTION 7 RURAL RESIDENTIAL MIXED USE

708 Minimum Setbacks [\(see 708.04 for non-conforming parcels\)](#)

708.01 Principal Use: (also apply to Special Exception Uses)

Front: [Twenty-five \(25\)](#) feet.

Side: [Twenty-five \(25\)](#) feet.

Rear: [Twenty-five \(25\)](#) feet.

708.02 Accessory Use:
Front: Twenty-five (25) feet.
Side: Fifteen (15) feet.
Rear: Fifteen (15) feet.

708.03 Conditional Use:
Same as Principal unless otherwise defined with the CUP

708.04 Non-Conforming Parcel Minimum Setbacks

For non-conforming parcels, the front, side, and rear setbacks shall be ten (10) feet for a principal use, special exception use, and accessory use. A conditional use shall be subject to the same setbacks unless otherwise defined with the CUP.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by a Planning Board member to display numbers for a unit of measure consistently. On June 25, 2020, Planning Board Members requested options to reduce the impacts of zoning on existing parcels, particularly in the Rimini area. The addition of a reduced front, side, and rear setback for non-conforming parcels provides greater flexibility for existing parcels and will reduce the need for variance requests.]

Pages 7-8, 7-9, and 7-10, April 14, 2020 DRAFT Helena Valley Zoning Regulations

~~708.04 Waterbody Setbacks and Buffers:~~

~~Protection of surface water resources can be accomplished through setback and buffer zones to encourage development away from critical water resources.~~

~~708.04.1 Applicability and Water Course Descriptions~~

~~Setbacks and buffers are horizontal distances from the ordinary high water mark, and are designated as follows:~~

Water Course Designation	Setback	Buffer
(a) Type I	250 feet	100 feet
(b) Type II	200 feet	75 feet
(c) Type III	100 feet	50 feet
(d) Type IV	50 feet	no buffer

~~Setback and buffer areas are applicable from the boundaries of wetlands identified by the County, the Army Corps of Engineers, Department of Environmental Quality (DEQ), U.S. Fish and Wildlife Services, Department of Natural Resources and Conservation (DNRC) or Montana Fish, Wildlife and Parks (FWP). Setback and buffers areas from wetland boundaries may not contain structures and improvements, except for those for educational or scientific purposes.~~

~~For the purposes of this section, water courses subject to these regulations shall include the following:~~

- ~~(a). Parcels within 250 feet of the ordinary high water mark of type I water courses. This is defined as the Missouri River (excluding the reservoirs);~~
- ~~(b). Parcels within 200 feet of the ordinary high water mark of type II water courses, generally defined as all main tributaries of type I water courses;~~
- ~~(c). Parcels within 100 feet of the ordinary high water mark of type III water courses, generally defined as all tributaries of type II water courses; all intermittent streams; Missouri River Reservoirs; Lake Helena; Helena Valley Regulating Reservoir; and wetlands (as defined by the current edition of the Federal Manual for Identifying and Delineating Wetlands);~~
- ~~(d). Parcels within 50 feet of type IV water courses, which for these purposes are considered the Helena Valley Irrigation District canals, Prickly Pear Water Users canals, and ditches or canals specifically designed to specifically carry irrigation water.~~

~~708.04.2 — Structures and uses prohibited under the setback and buffer standards include the following:~~

- ~~a. ~~(a) a~~Any type of building and accessory structure related to residential and non-residential uses;~~
- ~~b. ~~(b) m~~Manufactured and prefabricated buildings or accessory structures;~~
- ~~c. ~~(c) s~~Septic tanks and septic tank drain fields;~~
- ~~d. ~~(d) b~~Barns, feed lots, and corrals;~~
- ~~e. ~~(e) T~~elecommunication towers ~~F~~acilities; and~~
- ~~f. ~~(f) r~~Roads, road easements, road rights-of-way and driveways that are within the setback and buffer area and are parallel to the watercourse.~~

~~708.04.3 — All setbacks must extend to the edge of adjacent wetlands and the 100-year floodplain, if designated. In cases where identified wetlands or the 100-year flood plain extend beyond the setback, the setback width will be extended accordingly.~~

~~708.04.4 — The buffer is required on 75% of the linear footage along the affected water bodies. The maximum lineal footage allowed as part of this 25% is 100 feet. Docks, walkways, lawns or other improvements not otherwise prohibited by these regulations are allowed on the remaining 25% of the footage. Property owners are encouraged, however, to keep the entire shoreline in a natural state.~~

~~708.04.5 — Equipment and infrastructure directly related to agricultural production (e.g., pumps, irrigation equipment, hay storage and harvesting facilities, canals, and storage sheds less than 150 square feet in floor area and under 10 feet in height) are exempt from the setback and buffer requirements.~~

~~708.04.6 — Structures and infrastructure related to water-related recreation such as docks, boat ramps, fishing access sites, and boat houses are exempt from the setback and buffer requirements (providing they are in the 25% of linear frontage area open to such development).~~

~~708.04.7 — Fencing is exempt from the setback and buffer requirements.~~

~~708.04.8 — Public trails along a stream, river, lake, or wetland may be constructed within the required buffer zones, provided they are solely for non-motorized use, and subject to the following provisions:~~

- ~~a. — trails shall not be constructed within 15 feet of the ordinary high water mark of a stream, river, lake, or wetland. Existing trails inside this zone will be considered to be a legal, non-conforming use;~~
- ~~b. — construction of trails shall follow the natural topography to the maximum extent feasible to prevent excessive cut and fill; and~~
- ~~c. — natural vegetation shall be retained to the maximum extent possible.~~

~~708.04.8 — Public trails along a stream, river, lake, or wetland may be constructed within the required buffer zones, provided they are solely for non-motorized use, and subject to the following provisions:~~

- ~~d. — (a) t Trails shall not be constructed within 15 feet of the ordinary high water mark of a stream, river, lake, or wetland. Existing trails inside this zone will be considered to be a legal, non-conforming use;~~
- ~~e. — (b) c Construction of trails shall follow the natural topography to the maximum extent feasible to prevent excessive cut and fill; and~~
- ~~f. — (c) n Natural vegetation shall be retained to the maximum extent possible.~~

~~708.04.9 — Nothing in this Waterbody Setbacks and Buffers section shall prohibit repairs or improvements to existing roads, ditches, utilities or utility lines, bank maintenance, or stream stabilization/enhancement measures otherwise allowable under federal or state laws. The following uses or activities are authorized to occur within the setback and buffer area:~~

- ~~a. — (a) a A utility line;~~
- ~~b. — (b) r Roads, road easements, road rights-of-way and driveways that are perpendicular to the watercourse and within the setback are permitted;~~
- ~~c. — (c) a An outlet for stormwater facilities;~~
- ~~d. — (d) a An agricultural use or activity that is not a new agricultural building or addition to an existing building;~~
- ~~e. — (e) a An existing legal, non-conforming structure, use, or activity;~~
- ~~f. — (f) a An activity that is required in an approved noxious weed control plan; and/or~~
- ~~g. — (g) a An activity related to the planting of native vegetation.~~

~~708.04.9 — Nothing in this Waterbody Setbacks and Buffers section shall prohibit repairs or improvements to existing roads, ditches, utilities or utility lines, bank maintenance, or stream stabilization/enhancement measures otherwise allowable under federal or state laws. The following uses or activities are authorized to occur within the setback and buffer area:~~

- a.—a utility line;
- b.—roads, road easements, road rights-of-way and driveways that are perpendicular to the watercourse and within the setback are permitted;
- c.—an outlet for stormwater facilities;
- d.—an agricultural use or activity that is not a new agricultural building or addition to an existing building;
- e.—an existing legal, non-conforming structure, use, or activity;
- f.—an activity that is required in an approved noxious weed control plan; and/or
- g.—an activity related to the planting of native vegetation.

~~708.04.10—Routine maintenance of existing dwellings or accessory structures would be allowed inside the setback. Expansions or improvements of up to 50% of the total square footage of the dwelling or accessory structure are permitted, provided they do not encroach any further into the setback, and meet other applicable regulations.~~

[STAFF NOTES ON PROPOSED CHANGES: Public comment received has indicated concern about the “Waterbody Setbacks” (Section 708.04) specific to existing development in two very different areas of the Helena Valley Planning Area (Rimini and Dana’s Point). After further consideration, Staff has recommended the waterbody setbacks be removed from the draft zoning regulations. They will remain in full force and effect in the County’s Subdivision Regulations and will therefore still capture all new development as may be applicable. Similarly, the County’s Floodplain Regulations also remain in full force and effect (as they are a standalone set of regulations) and therefore any potential negative impact due to the removal of the waterbody setbacks will be de minimis.

SECTION 14 CONDITIONAL USE PERMIT

Pages 14-7 and 14-8, April 14, 2020 DRAFT Helena Valley Zoning Regulations

1408 Submittal Process

The following shall apply to a new CUP or a CUP Amendment. The application shall be submitted only after the ~~presubmittal~~ pre-application meeting(s) has been completed and the applicant has received the written Staff comment summary from the ~~presubmittal~~ pre-application meeting. For a request for a CUP, or a CUP amendment, the submittal is processed as follows:

1408.01 The applicant shall submit the required submittal information to the CDP. The submittal shall be reviewed by the Planner Staff assigned the project and a determination of completeness and sufficiency shall be made within twenty-one (21) days. The applicant shall be notified in writing if the submittal is incomplete and/or insufficient, and any inadequacies shall be specifically identified. An incomplete or insufficient submittal will not be processed.

1408.02 Once the submittal is determined complete and sufficient, ~~s~~Staff will notify the applicant in writing of the number of copies of the submittal information required for distribution to referral agencies.

1408.03 If the referral agencies elect to comment, they may comment within thirty (30) days from the date the referral packets were mailed or electronically distributed, unless the applicant grants, in writing, an extension of no more than thirty (30) days.

All referral agency comments shall be provided by the Planner Staff to the applicant. The applicant shall be given an opportunity to address the comments of all referral agencies by identifying in writing the extent to which the project has been revised in response to the comments. The applicant is strongly encouraged to provide the Planner Staff with a written response. The applicant is encouraged to meet with the referral agencies and the Planner Staff to address any concerns.

1408.04 The Planner Staff will review the referral agency comments, and discuss the concerns with the applicant, Upon receipt of written notice from the applicant that they are ready to proceed with a public hearing, Staff shall schedule a public hearing before the BOA, Once such public hearing has been determined, Staff shall notify the applicant in writing of the hearing date and time, and prepare a staff report for the BOA. The Planner Staff will provide the public notice for the hearing as set forth in Section 1412 herein.

1408.05 The BOA shall evaluate the CUP request, staff report, referral agency comments, applicant responses, and public comment and testimony, and shall approve, approve with conditions, table for further study, or deny the CUP request. The BOA's action shall be based on the evidence presented, public comment, compliance with the adopted County standards, regulations, policies, and other guidelines. The BOA shall have up to sixty (60) days from the date of the public hearing to render their decision unless an extension is mutually agreed-upon between the applicant and the BOA.

1408.06 If denied by the BOA, a resubmittal of a CUP request for the same or substantially same request, as determined by the Zoning Administrator, shall not be accepted within one (1) year of such denial. The applicant may appeal the decision, in writing, to the BOA pursuant to the Section 20 (Appeals) of these Regulations. The submittal of a new application and processing fee shall be required to pursue another proposed CUP.

1408.07 Following approval by the BOA, the applicant shall submit a signed Plan Exhibit to the CDP. The Planner Staff shall verify that all conditions of approval have been met and all technical corrections have been satisfactorily made, prior to the Zoning Administrator's execution of the approval certificate on behalf of the BOA. The applicant shall submit the final signed Plan Exhibit no later than ninety (90) days from the date of BOA approval, unless the BOA allows for a longer period of time as part of its approval. The Zoning Administrator may grant a one-time extension of no more than an additional ninety (90) days. Further extensions shall may be submitted for the BOA's consideration.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by Planning Board member and Staff to correct capitalization, use common language, refer to Staff consistently, provide clear references and to display numbers for a unit of measure consistently. On June 25, 2020, Planning Board Members requested that Staff recommend the addition of timelines to application processes.]

Pages 14-11 and 14-12, April 14, 2020 DRAFT Helena Valley Zoning Regulations

1412.01 ~~WRITTEN NOTICE~~ Written Notice

At least fifteen (15) days prior to the BOA hearing, Staff shall mail a written notice of the hearing by first-class mail to the address of each abutting landowner as such address is shown in the records of the County. The notice shall read substantially the same, as the published notice also required by this section.

The person completing the mailing of the written notice shall execute a certificate of mailing. Such certificate shall read as follows:

CERTIFICATE OF MAILING
I, _____, hereby certify that a true and correct copy of the attached written notice was placed in the U.S. mail, first-class, postage prepaid this _____ day of _____, 20____, and addressed as follows: (attach list of addresses as needed)
_____ (signature of person completing the mailing)

~~In the event the notice was not mailed to an abutting landowner or otherwise failed to comply with the written notice required in this section, the landowner who did not receive such complying notice may waive such notice by submitting a notarized written waiver to CDP prior to the hearing.~~

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by a Planning Board member to correct capitalization and to display numbers for a unit of measure consistently. Planning Board Member raised a concern on June 25, 2020 that the waiver of notice provided in this section may create a problem in that a landowner could indicate they did not receive notice and furthermore refuse to waive such notice.]

SECTION 19 VARIANCE STANDARDS AND PROCEDURES

Pages 19-2 through 19-4, April 14, 2020 DRAFT Helena Valley Zoning Regulations

1904 Procedure for Variance

- 1904.01 The applicant shall discuss the variance informally with ~~CDP~~ Staff to go over the procedures and submittal requirements.
- 1904.02 The applicant shall submit the following to the CDP:
- 1904.02.1 A completed application form (*available from the CDP*).
- 1904.02.2 Documentation of ownership (such as a general or warranty deed, option to buy or buy-sell agreement) of the land which is the subject of the variance.
- 1904.02.3 Application fee (*available from the CDP*).
- 1904.02.4 A site plan, when applicable, indicating how the variance relates to the affected land. The site plan shall be drawn to scale including the height and setbacks of all existing and proposed structures and any other information requested by the CDP.
- 1904.02.5 A scaled vicinity map with a north arrow that, clearly shows the property in question, with its zoning, along with the zoning of the adjacent 1-mile radius area.
- 1904.02.6 An explanation in narrative form explaining the requested variance and how it meets the criteria in Sections 1902 and 1903 ~~herein~~.
- 1904.03 When an application is submitted, ~~Staff shall determine whether the application and supporting materials are complete and sufficient. When an application is determined to be incomplete or insufficient, Staff shall provide written notice to the applicant indicating what information must be submitted for the review to proceed. the submittal shall be reviewed by the Staff assigned the project and a determination of completeness and sufficiency shall be made within twenty-one (21) days. The applicant shall be notified in writing if the submittal is incomplete and/or insufficient, and any inadequacies shall be specifically identified. An incomplete or insufficient submittal will not be processed.~~
- 1904.04 ~~Once the submittal is determined to be complete and sufficient, Staff shall submit the application to the appropriate referral agencies, schedule the variance hearing before the BOA, and notify the applicant of the date and time of the public hearing. Once the submittal is determined complete and sufficient, Staff will notify the applicant in writing of the number of copies of the submittal information required for distribution to referral agencies.~~
- 1904.05 ~~Prior to the hearing, Staff will provide legal notice as set forth in Section 1906 herein.~~

If the referral agencies elect to comment, they may comment within thirty (30) days from the date the referral packets were mailed or electronically distributed, unless the applicant grants, in writing, an extension of no more than thirty (30) days.

All referral agency comments shall be provided by the Staff to the applicant. The applicant shall be given an opportunity to address the comments of all referral agencies by identifying in writing the extent to which the project has been revised in response to the comments. The applicant is strongly encouraged to provide the Staff with a written response. The applicant is encouraged to meet with the referral agencies and the Staff to address any concerns.

1904.06 ~~The CDP Staff shall prepare a report to the BOA that describes the proposed variance and provides an evaluation of the request relative to the variance criteria noted herein. The Staff will review the referral agency comments and discuss the concerns with the applicant. Upon receipt of written notice from the applicant that they are ready to proceed with a public hearing, Staff shall schedule a public hearing before the BOA. Once such public hearing has been determined, Staff shall notify the applicant in writing of the hearing date and time and prepare a staff report for the BOA. The Staff will provide the public notice for the hearing as set forth in Section 1905.~~

1904.07 Conditions may be attached to the approval of any variance in accordance with the following:

1904.07.1 Conditions shall be designed to ensure compliance with one or more specific requirements of these or other applicable adopted regulations; and/or

1904.07.2 Conditions shall be directly related to any anticipated impacts of the applicant's proposal; and/or

1904.07.23 Conditions shall be roughly proportional to any anticipated impacts of the applicant's proposal.

~~1904.08 The BOA shall conduct a public hearing on the proposed variance.~~

1904.0908 The BOA shall evaluate the application, the staff report, and public testimony; and then shall approve, conditionally approve, ~~table for further study,~~ or deny the variance based on the evidence presented ~~in~~ and compliance with the applicable criteria. The BOA shall have up to sixty (60) days from the date of the public hearing to render their decision unless an extension is mutually agreed-upon between the applicant and the BOA.

1904.1009 As part of the BOA's deliberative process in making their decision, it will adopt findings and conclusions in support of its decision.

1905 Public Notice Requirements

In calculating the time period for public notification, see Section ~~108~~ 106 of these Regulations.

1905.01 ~~MAILED NOTICE~~ Mailed Notice

building height, without going to the BOA. The applicant shall submit the fee and the information required in Section 1904.02 herein to the Zoning Administrator. Staff shall notify abutting landowners of the request. Such notification shall be either a notice of the variance request sent by certified mail, return receipt requested, at least fifteen (15) days prior to the Zoning Administrator's consideration of such request; or the applicant may obtain a signed statement from the abutting landowners clearly stating that they were notified of the variance request and submit these signatures with the application.

The procedure for an Administrative Variance shall substantially follow that of Section 1904 herein; however, without the need for the hearing before the BOA.

A decision by the Zoning Administrator to deny such variance may be appealed to the BOA in accordance with the procedure in Section 20 (Appeals). A written appeal shall be submitted by the applicant to the Zoning Administrator within thirty (30) days of such denial.

[STAFF NOTES ON PROPOSED CHANGES: Changes suggested by a Planning Board member to provide clear references and to display numbers for a unit of measure consistently. Planning Board Members raised a concern on June 25, 2020 that the percentage allowed for an administrative variance was vague as to what it applied too. Staff has provided language that clarifies that an administrative variance could be considered for setbacks and building heights.]

SECTION 20 APPEAL STANDARDS AND PROCEDURES

Pages 20-2 through 20-4, April 14, 2020 DRAFT Helena Valley Zoning Regulations

2004 Procedure for an Appeal

2004.01 The applicant shall discuss the appeal informally with ~~CDP~~ Staff to discuss the procedures and submittal requirements.

2004.02 The applicant shall submit the following to the CDP:

2004.02.1 A completed application form (*available from CDP*);

2004.02.2 Application fee (*available from CDP*); and

2004.02.3 An explanation in narrative form explaining the appeal request and how the Zoning Administrator has erred in the interpretation.

2004.03 The submittal shall be reviewed for completeness and the applicant notified of any inadequacies within twenty-one (21) days. An incomplete submittal shall not be processed.

2004.04 ~~Once the submittal is determined to be complete, CDP Staff shall submit the application to the appropriate referral agencies and schedule the appeal before the BOA and notify the applicant of the date and time of the public hearing.~~

Once the submittal is determined complete, Staff will notify the applicant in writing of the number of copies of the submittal information required for distribution to referral agencies.

2004.05 ~~Prior to the hearing, CDP Staff will provide legal notice as set forth in Section 2005 herein. If the referral agencies elect to comment, they may comment within thirty (30) days from the date the referral packets were mailed or electronically distributed, unless the applicant grants, in writing, an extension of no more than thirty (30) days.~~

All referral agency comments shall be provided by the Staff to the applicant. The applicant shall be given an opportunity to address the comments of all referral agencies by identifying in writing the extent to which the project has been revised in response to the comments. The applicant is strongly encouraged to provide the Staff with a written response. The applicant is encouraged to meet with the referral agencies and the Staff to address any concerns.

2004.06 The Staff will review the referral agency comments and discuss the concerns with the applicant. Upon receipt of written notice from the applicant that they are ready to proceed with a public hearing, Staff shall schedule a public hearing before the BOA. Once such public hearing has been determined, Staff shall notify the applicant in writing of the hearing date and time and prepare a staff report for the BOA. The Staff will provide the public notice for the hearing as set forth in Section 2005.

2004.0607 The BOA shall evaluate the application, staff report and public testimony, and shall approve, conditionally approve, ~~table for further study~~, or deny the appeal based on the evidence presented, and compliance with the applicable criteria. The BOA shall have up to sixty (60) days from the date of the public hearing to render their decision unless an extension is mutually agreed-upon between the applicant and the BOA.

2005 Public Notice Requirements

In calculating the time period for public notification, see Section 106 of these Regulations.

2005.01 ~~MAILED NOTICE~~ Mailed Notice

At least fifteen (15) days prior to the BOA hearing, written notice by first-class must be mailed to each property owner of record immediately adjoining the land included under the appeal.

The notice shall indicate:

- (a) The date, time and location of the hearing;
- (b) An explanation of the variance;
- (c) The location of the land (as applicable) that is the subject of the request (distance and direction from nearest major intersection); general location of the land (as applicable) that is the subject of the request;
- (d) The file name and number; and

