

City of Dahlonega Planning & Zoning

465 Riley Road

Dahlonega, GA 30533

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MEMORANDUM

TO: Applicants for Variance

FROM: Chris Head

RE: Variance procedure and application materials

In order to assist you in preparing your variance application, and to enable a complete understanding of the variance application process, this package has been assembled. The following attachments are included:

1. Variance application form.
2. A flow chart of the application process.
3. Schedule of Zoning application hearings and the deadline dates for submittal.

*A copy of Article XXVI of the zoning ordinance which describes in detail the required amendment application procedures is available upon request at the office.

The application fee of \$200 is due at the time of submittal.

In addition to the application and/or site plans you may want to include a brief narrative explaining what you are requesting and why.

Please be advised that someone will need to be at the meetings to present the request or the item will be tabled. Call if you need additional information.

A metes and bounds legal description is required. Also attach a boundary survey of the property if available Please be advised of the following:

- 1) The applicant is bound by the submitted site plan and letter of intent if this application is approved and development must be initiated within twenty-four months or the approved zoning is subject to reversion to its previous zoning by the Governing Body.
- 2) It is the policy (but not a legal requirement) that adjacent property owners and those owners within 150 feet of the subject property are notified by certified mail of the application.
- 3) The following seven questions can be answered within a letter of intent, but failure to answer any one can result in denial of the application.

Complete the following information.

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other land or structures in the same district.

2. A literal interpretation of the provisions of these zoning regulations would create an unnecessary hardship and would deprive the applicant of rights commonly enjoyed by other property owners within the district in which the property is located.

3. Granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located.

4. Relief, if granted, will be in harmony with the purpose and intent of these regulations and will not be injurious to the neighborhood or general welfare in such a manner as will interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.

Property Owner's Certification

I hereby request the action contained with this application relative to the property shown on the attached plats and site plan and further request that this item be placed on both the Planning Commission and City Council's agenda(s) for a public hearing.

I understand that the Planning and Development staff may either accept or reject my request upon review. My request will be rejected if all the necessary data is not presented.

I understand that I have the obligation to present all data necessary and required by statute to enable the Planning Commission and City council to make an informed determination on my request. I will seek the advice of an attorney if I am not familiar with the zoning and land use requirements.

I understand that my request will be acted upon at the Planning Commission and City Council hearings and that I am required to be present or to be represented by someone able to present all the facts. I understand that failure to appear at the public hearing may result in the postponement or denial of my application. I further understand that it is my responsibility to be aware of relevant public hearing dates and time regardless of notification from the City of Dahlonega.

I herby certify that I have read the above and that the above information as well as the attached information is true and accurate.

I certify that I am the owner of the property described in the attached legal description, that all information contained in this application is true and correct to the best of my knowledge, and that the applicant and/or agent listed above is authorized to act as the applicant and/or agent in the pursuit of rezoning of this property.

Signature of Property Owner: _____

Printed name of Property Owner : _____

Date of Signature: _____

Signature of Witness: _____

DISCLOSURE OF CAMPAIGN CONTRIBUTION

(Applicant(s) and Representative(s) of rezoning)

Pursuant to OCGA Section 36-37 A-3.A, the following disclosure is mandatory when an applicant or any representation of application for rezoning has been made within two (2) years immediately preceding the filing of the applicant's request for re-zoning & campaign contributions aggregating \$250.00 or more to a local government official who will consider the application for rezoning.

It shall be the duty of the applicant and the attorney representing the applicant to file a disclosure with the governing authority of the respective local government showing the following information:

1. The name of the local official to whom the campaign contribution was made:

_____.

2. The dollar amount and/or description of each campaign contribution made by the applicant to the local government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution:

Amount \$ _____ Date: _____

Amount \$ _____ Date: _____

3. Enumeration and description of each gift when the total value of all gifts is \$250.00 or more made to the local government official during the 2 years immediately preceding the filing application for rezoning:

Signature of Applicant/
Representative of Applicant: _____

Date: _____

By not completing this form you are making a statement that no disclosure is required because no contributions have been made.

This form may be copied and additional pages attached if necessary.

Section 2605. Application Requirements.

Application materials specified in this section shall be required for the following petitions: amendments to the official zoning map, alterations or extensions of conditional zoning, conditional use permits, development plan approvals within the Planned Unit Development (PUD) District, Mobile Home Park (MHP) District, applications for condominium site plan approval, variances or appeals to the Board of Zoning Appeals:

1. An application form furnished by the Zoning Administrative Officer; and
2. A legal description of the property to be considered in the application. The legal description shall be by metes and bounds unless an alternative legal description is accepted by the Zoning Administrative Officer. Boundary surveys of the property should be submitted with the application whenever available; and
3. A letter of intent which describes general characteristics of the proposed development such as type and time frame of development, background information in support of such application, and any other information deemed pertinent by the applicant. For variance applications, the letter of intent shall address the criteria specified in Section 2406. of these regulations. For zoning map amendment applications, the letter of intent shall address the standards specified in Section 2607. of these regulations. For conditional use permit applications, the letter of intent shall address the standards specified in Section 2608. of these regulations. For PUD applications the letter of intent shall take the form of a development plan summary report which shall also address the items enumerated in Section 1303.
4. A site plan with all information specified in Section 2606. except that zoning map amendment applications for R-1 zoning shall not require a site plan. Unless otherwise noted in the approval, the site plan submitted in support of an approved application shall be considered a part of the approval and must be followed.
5. A fee for said application as established by the Governing Body from time to time.
6. Applications for conditional use permits to exceed the height limitations, applications for conditional signs, and applications for Certificates of Appropriateness shall also require architectural elevations of all proposed structures and buildings requested for approval.
7. Applications which require action by the Governing Body shall also require disclosure of any conflicts of interest as specified in Chapter 67A of the Georgia Code, "Conflict of Interest in Zoning Actions."

Applicants shall ~~submit fifteen (15) copies~~ of any required site plans, development plans, elevation drawings and letters of intent to the Zoning Administrative Officer for distribution to the applicable bodies and/or review agencies. The Zoning Administrative Officer **may require more or less** copies depending on the nature and extent of required review.

Section 2606. Site Plan Requirements.

All site plans required by this Article shall, at a minimum, contain the following information:

1. Title of the proposed development and the name, address and telephone number of the property owner.
2. The name, address and telephone number of the architect, engineer or other designer of the proposed development.
3. Scale, date, north arrow, and general location map showing relationship of the site to streets or natural landmarks.
4. Boundaries of the subject property, all existing and proposed streets, including right-of-way and street pavement widths; buildings; water courses; parking and loading areas; and other physical characteristics of the property and proposed development.
5. Building setbacks, buffers, landscape strips, and tree protection zone.

Section 2607. Criteria To Consider For Map Amendments.

The applicant, staff, Planning Commission and Governing Body should review an application for zoning map amendment with regard to the following criteria:

1. The existing uses and zoning of nearby property and whether the proposed zoning will adversely affect the existing use or usability of nearby property.
2. The extent to which property values are diminished by the particular zoning restrictions.
3. The extent to which the destruction of property values promotes the health, safety, morals or general welfare of the public.
4. The relative gain to the public, as compared to the hardship imposed upon the individual property owner.
5. The physical suitability of the subject property for development as presently zoned and under the proposed zoning district.
6. The length of time the property has been vacant, considered in the context of land development in the area in the vicinity of the property, and whether there are existing or changed conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the rezoning request.

7. The zoning history of the subject property.
8. The extent to which the proposed zoning will result in a use which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, schools, parks, or other public facilities.
9. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan, land use plan, or other adopted plans.

The staff, Planning Commission and Governing Body may consider other factors deemed relevant before formulating recommendations and taking action on a particular request.

Section 2608. Criteria To Consider For Conditional Uses.

The applicant, staff, Planning Commission and Governing Body should review applications for conditional uses with regard to the following criteria:

1. Off-street parking and loading facilities are adequate in terms of location, amount and design to serve the use.
2. The number, size and type of signs proposed are compatible with the surrounding area.
3. The amount and location of open space and the provision of screening is such that buffering of incompatible uses is achieved.
4. Ingress and egress to the property is suitable and safe, and the effect of the proposed activity on traffic flow along adjoining streets is not adverse.
5. The location and intensity of outdoor lighting is such that it does not cast light on adjacent, adjoining or neighboring properties.
6. Hours and manner of operation of the proposed use are not inconsistent with adjacent and nearby uses.
7. Public facilities and utilities are capable of adequately serving the proposed use.
8. The proposed use will not have a significant adverse effect on the level of property values or the general character of adjacent land uses or the general area.
9. The physical conditions of the site, including size, shape, topography and drainage, are suitable for the proposed development.
10. The proposed use is consistent with the goals and objectives of the Comprehensive Plan of the City of Dahlenega.

The staff, Planning Commission and Governing Body may consider other factors deemed relevant before formulating recommendations and taking action on a particular conditional use application.

Introduction

The City of Dahlonega Planning Commission and City Council wish to inform you as to our Public Hearings for consideration of rezoning and variance applications. We appreciate your taking the time to attend these important proceedings.

The following information is provided to assist you in being fully informed as to the application process and procedure, and the issues involved in all zoning and variance hearings. Please read this information carefully. Hopefully, at the conclusion of the hearing you will have a better understanding of this governmental proceeding and will have fully participated in it as an interested citizen.

Application Process For Rezoning and Variances

At a preliminary meeting with a planner, the application process is discussed to determine what items are to be provided by the applicant.

Requirements for the application include a plat or deed and tax maps as well as authorization from the property owner. An application fee, determined by the type of application, is required upon filing. Additional data which may be required include a site plan, written report, plan approval by the Health Department, Engineering Department, Water Department, and/or the Department of Transportation.

Rezoning and variances are heard initially before the Planning Commissions and then as to rezonings the final public hearing is before the City Council and as to variances the final public hearing is before the Board of Zoning Appeals.

The application is filed in the Planning Department and must be made at least 30 working days prior to the Planning Commission meeting, in order for the City to prepare and deliver for publication, a legal advertisement which will be published at least 15 days prior to both the Planning Commission and City Council/Board of Zoning Appeals public hearings. The City Council will also:

1. Place on the property a sign with the dates and times of the Planning Commission and City Council/Board of Zoning Appeals meetings is posted on the subject property by the applicant at least 15 days prior to the public hearing.
2. Notify property owners adjacent to the subject property by mail of the request and meeting date and time (must be postmarked no less than five days before the public hearing).

A location map and staff report are prepared and delivered to Planning Commission members along with any information submitted by the applicant by the Planning Commission and/or legal staff.

The Planning Commission holds a public hearing on the request. The meeting is held at times designated in the *Dahlonaga Nugget*. The applicant and any other citizens concerned with the request are given an opportunity to speak during the hearing. After all comments are heard, the Planning Commission makes its decision. They can approve, approve with conditions, table, deny a request or recommend a specific action to the City Council and/or the Board of Zoning Appeals, depending on the type of application.

The Planning Commission's recommendation, with all information received at the public hearing (staff reports, maps, etc.), are forwarded to the City Council as to rezoning and the Board of Zoning Appeals as to variances.

The City Council then holds a public hearing on the rezoning requests. The meeting times are set forth in the notices. All meetings are held at City Hall, 465 Riley Road.* The hearing is conducted under the same format as the Planning Commission's public hearing. After all comments are heard, the City Council makes its decision. The Council can approve, approve with conditions, table, refer to the Planning Commission, or deny the request. Their decision is final unless appealed to the Superior Court of Lumpkin County within 30 days following Commission action. Variance hearings before the Board of Zoning Appeals are conducted in the same manner as the rezoning hearings before the City Council.

*Unless public notice is given of some other time and/or location.

Criteria for Rezoning

The Council studies the need and justification for a requested zoning change based on a determination of the facts applicable to the particular application. The following criteria are considered in making that determination as per our Zoning Ordinance:

1. The existing uses and zoning of nearby property and whether the proposed zoning will adversely affect the existing use or usability of nearby property.
2. The extent to which property values are diminished by the particular zoning restrictions.
3. The extent to which the destruction of property values promotes the health, safety, morals or general welfare of the public.

4. The relative gain to the public, as compared to the hardship imposed upon the individual property owner.
5. The physical suitability of the subject property for development as presently zoned and under the proposed zoning district.
6. The length of time the property has been vacant, considered in the context of land development in the area in the vicinity of the property, and whether there are existing or changed conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the rezoning request.
7. The zoning history of the subject property.
8. The extent to which the proposed zoning will result in a use which will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, schools, parks, or other public facilities.
9. Whether the zoning proposal is in conformity with the policy and intent of the comprehensive plan, land use plan, or other adopted plans.

The following related areas of inquiry may be reviewed as well:

1. Off-street parking and loading facilities are adequate in terms of location, amount and design to serve the use.
2. The number, size and type of signs proposed are compatible with the surrounding area.
3. The amount and location of open space and the provision of screening is such that buffering of incompatible uses is achieved.
4. Ingress and egress to the property is suitable and safe, and the effect of the proposed activity on traffic flow along adjoining streets is not adverse.

5. The location and intensity of outdoor lighting is such that it does not cast light on adjacent, adjoining or neighboring properties.
6. Hours and manner of operation of the proposed use are not inconsistent with adjacent and nearby uses.
7. Public facilities and utilities are capable of adequately serving the proposed use.
8. The proposed use will not have a significant adverse effect on the level of property values or the general character of adjacent land uses or the general area.
9. The physical conditions of the site, including size, shape, topography and drainage, are suitable for the proposed development.
10. The proposed use is consistent with the goals and objectives of the Comprehensive Plan of the City of Dahlonega.

Comments addressed to the Board of Zoning Appeals, Planning Commission and the City Council should address these criteria.

The types of questions precipitated by these criteria are as follows:

1. Will the zoning proposal permit a use that is suitable in view of the use, development, and zoning of adjacent and nearby property?
2. Will the zoning proposal adversely affect the existing use or usability of adjacent or nearby property?
3. Does the subject property have a reasonable economic use as currently zoned?
4. Will the zoning proposal result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, schools, police protection, fire protection, public health facilities, or emergency medical service?

5. Is the zoning proposal in conformity with the policy and intent of the future land use plan for the physical development of the area?
6. What is the effect on the property value of the subject property should the existing zoning be retained?
7. If denied, will the effect on the subject property's value under the existing zoning be offset by the gain to the health, safety, morals, or general welfare of the public?
8. If denied, how does the relative gain to the public compare to the hardship imposed upon the individual property owner?
9. Has the property been undeveloped an unusual length of time as currently zoned considered in the context of land development in the area in the vicinity of the property?
10. Are there other existing or changing conditions affecting the use or development of the property which give supporting grounds for either approval or disapproval of the zoning proposal?
11. Would the change create an isolated district unrelated to the surrounding districts, such as "spot zoning?"
12. Are the present zoning district boundaries illogically drawn in relation to existing conditions in the area?
13. Is the change requested out of scale with the needs of the city as a whole or the immediate neighborhood?
14. Is it impossible to find adequate sites for the proposed use in districts permitting such use and already appropriately zoned?
15. Could the need for rezoning be handled instead by a variance request to the zoning board of adjustment?
16. Would there be an impact on the ecology or would pollution result from major modifications to the land if the request is granted?
17. Is there reasonable evidence based upon existing and anticipated land use that would indicate a mistake was made in the original zoning of the property?

Criteria for Variances

The Ordinance spells out certain outlines for a variance which is defined as:

A minimal relaxation or modification of the strict terms of the height, area, placement, setback, yard, buffer, landscape strip, parking and loading regulations as applied to specific property when, because of particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or a desire to make profit.

The Board of Zoning Appeals is hereby empowered to authorize upon application in specific cases such variance from the terms of these regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations will in an individual case, result in unnecessary hardship, so that the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done. The existence of a non-conforming use of neighboring land, buildings or structures in the same zoning district or of permitted or non-conforming uses in other districts shall not constitute a reason for the requested variance. A variance may be granted in an individual case of unnecessary hardship, after appropriate application in accordance with Article XXVI, upon specific findings that all of the following conditions exist. The absence of any one (1) of the conditions shall be grounds for denial of the application for variance.

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other land or structures in the same district; and
2. A literal interpretation of the provisions of these zoning regulations would create an unnecessary hardship and would deprive the applicant of rights commonly enjoyed by other property owners within the district in which the property is located; and
3. Granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located; and
4. Relief; if granted, will be in harmony with the purpose and intent of these regulations and will not be injurious to the neighborhood or general welfare in such a manner as will interfere with or discourage the appropriate development and use of adjacent land and buildings or

unreasonably affect their value; and

5. The special circumstances are not the result of the actions of the applicant; and
6. The variance requested is the minimum variance that will make possible the legal use of the land, building, or structure; and
7. The variance is not a request to permit a use of land, building or structures which are not permitted by right in the district involved.

Planning Commission, Board of Zoning Appeals and City Council Procedure for Hearing

1. Public hearings shall be held at times and places provided in the published notices of the hearings.
2. The hearing shall be conducted by the City Attorney or other hearing officer.
3. Upon the convening of the hearing, the hearing officer will read the published notice of the matter to be considered. The matter shall be considered in the order indicated by the filing of the published notice.
4. The matter to be heard shall be stated by the hearing officer, who shall then call for a staff report on the proposed amendment.
5. A verbal staff report shall be made, stating the staff recommendation and summarizing the written report submitted for the hearing.
6. Both persons favoring and persons opposing a matter shall have an opportunity to speak. The party proposing the matter shall be invited to speak first, followed by persons favoring the proposed matter, then by persons opposed to the proposed matter. Each speaker will be asked to identify himself or herself and state his/her current address. When all opposing statements have

been heard, the party proposing the matter may be permitted to rebut those statements.

7. The hearing officer may place reasonable limits on the number of persons who may speak for or against the proposal, the time allowed for each speaker, and the total time allowed for presentation of the matter.

8. Each speaker shall speak only to the merits of the proposed matter and shall address remarks only to the public body hearing the request. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed zoning amendment. The hearing officer may limit or refuse a speaker the right to continue if the speaker, after first being cautioned, continues to violate this requirement.

9. Because of time constraints in hearings, interested parties shall be encouraged to submit petitions, studies, letters, and other materials requiring prior study in time to have them included in the final agenda for the hearing. The City shall have discretion to accept such materials at the hearing if circumstances did not permit earlier submittal. Such materials, if presented orally at the hearing, shall be subject to the time limits provided herein. If materials are not presented in a timely manner, they may not be considered or may result in tabling of the matter.

10. Upon conclusion of public comments, as determined by the hearing officer, conduct of the meeting shall be returned to the presiding officers who shall have discretion to call on previous speakers as necessary for clarification of views expressed or the materials submitted.

Nothing in this section shall be construed to limit the ability of the hearing officer to maintain decorum in the conduct of a hearing to assure that the hearing is conducted in a fair and orderly manner.

The public bodies hearing the matter shall have discretion to continue a hearing to a later date if the materials submitted or views expressed require more time for study and consideration than may reasonably be allocated in one meeting, and may call for such additional views, studies, or other information from any source members consider necessary to making a sound decision.

City of Dahlonge Zoning Districts

For the purpose of regulating development, The City of Dahlonge has divided its jurisdictional area into the following zoning districts:

Single-Family Residential District (R-1)

Highway Business District (B-2)

Multiple-Family Residential District (R-2)

Historical Business District (B-3)

Multiple-Family Residential District (R-3)

Mobile Home Park District (MHP)

Planned Unit Development District (PUD)

Neighborhood Business District (B-1)

Central Business District (CBD)

Office-Institutional District (O-I)

Industrial District (I)

Each zoning district differs from all the other districts in which land uses are allowed, what standards and restrictions apply and what approvals are necessary. The City of Dahlonega Zoning Regulations provide a description of land uses permitted and other requirements (minimum lot size, setbacks, frontage, etc.) of each district. You can obtain a full description of the permitted land uses and requirements from the City of Dahlonega Planning Department (telephone: 706-864-6133) located at 465 Riley Road, Dahlonega, Georgia, 30533. The requirements and permitted uses are subject to change with new amendments to the regulations, so always make sure you have the latest version of the requirements and permitted land uses.

Legal Representation

This information sheet is not and should not be considered a substitute for good legal advice. Because of the importance of all zoning matters, the City Council encourages you to seek legal advice from an attorney of your choice.

Rezoning, Variance, Conditional Use and Site Plan Hearing Schedule

Deadline for application Submittal	Public Hearing Planning & Zoning Meeting	Public Hearing Mayor & City Council Meeting
30 days prior to 1 st meeting. <i>Please submit your request ASAP.</i>	Second Monday of each month	1 st Monday of each month

REZONING, VARIANCE, SITE PLAN AND CONDITIONAL USE PROCESS

