

BERNALILLO COUNTY
Zoning, Building, Planning & Environmental Health
 111 Union Square SE, Suite 100
 Albuquerque, NM 87102
 (505) 314-0350 Fax: (505) 314-0480



APPEAL TO THE COUNTY COMMISSION
Application Date:
Application Number:
Hearing Date:

OWNER		PHONE
MAILING ADDRESS	CITY/STATE	ZIP

AGENT		PHONE
MAILING ADDRESS	CITY/STATE	ZIP

SITE ADDRESS

DIRECTIONS

LEGAL DESCRIPTION

MAP #	CURRENT ZONE(S)	PROPERTY SIZE IN ACRES
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UPC #	PROPOSED ZONE(S)	SUBDIVISION NAME
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EXISTING BUILDING & USE

PROPOSED BUILDING & USE

SCOPE OF WORK

DETAILED INFORMATION

I hereby acknowledge that I have read this application and stated that the above is correct. I agree to comply with the requirements of the County of Bernalillo, New Mexico, and the State of New Mexico as found in the appropriate ordinances adopted by both government agencies. I have reviewed and signed the appropriate section of text found on the reverse side of this application which is relative to this application.

- Owner
 - Occupant
 - Agent
- Signature _____ Date _____

APPEALS TO THE BOARD OF COUNTY COMMISSIONERS

Bernalillo County's ordinances, code, and policies mandate that proposed development follow a review and approval process. Zoning staff, and appointed commission decision are appealable to a higher level authority. Any person can appeal any staff or commission decision as long as the appeal deadlines are met and appropriate fees are paid. All decisions can be ultimately appealed to a judicial review (District Court).

There are two major appeal bodies with the County's process, the Board of Adjustment/County Planning Commission (BA/CPC), and the Board of County Commissioners (BCC).

APPEALS TO THE BOARD OF COUNTY COMMISSIONERS

The Board of County Commissioners shall sustain the recommendation of the Board of Adjustment or the County Planning Commission without modification unless the recommendation is appealed.

Written application for appeal must be submitted to the Zoning, Building and Planning Department, within fifteen (15) days of the written determination.

The BCC shall set the matter for hearing and give notice by mail of the time, place and purpose thereof to the appellant and to any interested party who has requested in writing to be so notified.

Any such decision by the BCC shall, in all instances, be the final administrative decision and shall be subject to judicial review as may be provided by law.

APPLICATION PROCESS

Written application must be submitted within fifteen days of the written determination.

A written justification for the appeal must be provided.

Petitions in support of the appeal. Refer to the 20% Rule.

There is a fee for this process.

General Rules of Procedure
Bernalillo County Board of County Commissioners

Article III Commission Meeting Procedures

Section 5. Agenda

- F. Zoning Agenda items may be introduced for a regular Zoning Meeting by the County Manager or his designee provided that the Agenda Item is submitted with all applicable County Planning Commission (CPC) action and necessary documentation to the Agenda Coordinator prior to 4:30 p.m., eleven calendar days before the regularly scheduled Zoning Meeting.
- 1) Presentation of Consent Items: When the CPC has recommended approval of an agenda item, it is placed on the Consent Agenda. Findings in support of recommendations and conditions of approval, if applicable, become part of the record upon their presentation to the Board at the Meeting. These do not need to be read into the record unless deemed necessary by the Commission.
 - 2) Removal from the Consent Agenda: The Board of County Commissioners may, by majority vote of the members present, "designate an item for review" and remove it from the Consent Agenda [Section 25D(1) of the Bernalillo County Zoning Ordinance #213]. The Board member initiating the request for removing an item from the Consent Agenda shall state the reason for their request. When an item is removed from the Consent Agenda, it shall be readvertised and placed on the Public Hearing Agenda of the next regularly scheduled Zoning Meeting or other Meeting as determined by the Board. The Board may utilize one vote for all items on the Consent Agenda.
 - 3) Withdrawal of Applications or Appeals: Any land use application or an appeal of a land use recommendation acted on by the County Planning Commission may be withdrawn by the property owner/agent or by the appellant at any time prior to the item being addressed by the Board. The withdrawal must be requested either in person or in writing "on the record" and accepted by majority vote of the Board's quorum.
 - 4) Appeal or Public Hearing Time Limits: A thirty (30) minute time limit on each party's testimony before the Board may be established with the understanding that the Chair may alter the time limit. Where numerous speakers sign up to testify, the Chair may assign a time limit of two (2) minutes per speaker, but in any event, each party's testimony shall still not exceed the total time allowed notwithstanding the number of speakers. In all cases, the maximum time available for the proponents should be equal to the maximum time available for the opponents. If necessary, a staff person shall be assigned by the County Manager to be the official timekeeper. Time limits may vary based on the complexity of the issues.
 - 5) Swearing in Procedures: The Chair or County Clerk swears in all parties and staff, as well as attorneys qualifying and acting as witnesses providing "competent evidence" and not solely representing their clients in a legal capacity.

- 6) Order of Presentation:
 - i. Staff presentation, 5 minutes;
 - ii. Appellant's presentation, 25 minutes;
 - iii. Opponent(s) presentation, 30 minutes;
 - iv. Appellant's summation or rebuttal, 5 minutes;
 - v. Appellant's and opponent's questions, 5 minutes;
 - vi. Staff closure, 2 minutes;
 - vii. Board discussion and questions,
 - viii. Action.

- 7) Multiple Item Appeals: The Board may combine separate appeals of the same action in order to minimize duplication of testimony and staff presentation. The time allowed for hearing items shall apply. A separate vote is necessary on each appeal.

- 8) Deferrals: Deferrals are granted at the discretion of the Board. The date, time, and place shall be identified for the deferred item. Requests for deferral must be submitted in writing and received by the County Manager no later than seven (7) days prior to the date of the scheduled meeting. The Chair may accept the request and direct staff to notify interested parties of the deferral. Requests for deferral received after the seven-day deadline may be considered at the time of the scheduled hearing with supporters and opponents of the request being given an opportunity to comment on the appropriateness of the deferral.

20% RULE
CERTIFICATION OF OPPOSITION TO PROPOSED LAND USE CHANGE

The 20% rules apply to appeals filed before the Board of County Commissioners only! Certification of protest under the 20% rule must be submitted to the Bernalillo County Zoning, Building and Planning Department no later than one week prior to the scheduled BCC appeal hearing. The department will verify the information presented for the protest and make a determination prior to the hearing date as to whether the 20% rule applies to the appeal. If the 20% rule does apply to the case, the proposed change in land use must be approved by a vote of four members of the BCC.

APPLICATION PROCESS:

Obtain an Appeal Application and a Certification of Opposition to Proposed Zoning Change and Petition Protesting Change in Zoning Regulations forms.

Complete the form as follows:

Name of Contact person for protest
Address
Phone Number

SUBMITTAL REQUIREMENTS:

A copy of the NOTICE OF DECISION for the case under appeal.

Forms with name, address, and signature for each owner asking to be included in the protest.

A copy of the Zone Atlas Page for the area indicating the property under consideration for a change in zoning regulation and highlights each of the properties included in the form submitted as part of this protest. The properties should be numbered to match the listings of property owners in the attached forms.

CERTIFICATION OF OPPOSITION TO PROPOSED ZONING CHANGE

Contact person for protest:

Name _____

Address _____

Phone Number: Work: _____ Home: _____

Submittal requirements:

- A copy of the notice of decision for the case under appeal.
- Forms with name, address, and signature for each owner asking to be included in the protest.
- A copy of the zone atlas page for the area indicating the property under consideration for a change in zoning regulation and highlighting each of the properties included in the form submitted as part of this protest. The properties should be numbered to match the listings of property owners in the attached forms.

Note: The 20% rule applies to appeals filed before the Board of County Commissioners only, not the County Planning Commission. Certification of protest under the 20% rule must be submitted to the Bernalillo County Zoning, Building and Planning Department no later than one week prior to the scheduled BCC appeal hearing. The department will verify the information presented for the protest and make a determination prior to the hearing date as to whether the 20% rule applies to the appeal. If the 20% rule does apply to the case, the proposed change in zoning regulation must be approved by a vote of four members of the Board of County Commissioners.

For Zoning, Building and Planning Department Use:

Hearing Date: _____ 20% Rule applies: Yes _____ No _____

Received By: _____ Verified by: _____

Date Submitted: _____

PETITION PROTESTING CHANGE IN ZONING REGULATIONS

Site of Proposed Change: _____ Case Number: _____

Action Being Protested: _____

THIS SECTION FOR OFFICIAL USE

#	Name of Owner (Not Tenant) <i>(Please Print)</i>	Address of Parcel	Signature	Legal Description UPC Code Size of Property
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				

THIS SECTION FOR OFFICIAL USE

#	Name (Print)	Address of Parcel	Signature	Legal Description UPC Code Size of Property
12.				
13.				
14.				
15.				
16.				
17.				
18.				
19.				
20.				
21.				
22.				
23.				
24.				
25.				
26.				